United Nations A/HRC/32/22

General Assembly

Distr.: General
15 April 2016

Original: English

Human Rights Council
Thirty-second session
Agenda items 2 and 3
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Best practices to counter the negative impact of corruption on the enjoyment of all human rights

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted in response to Human Rights Council resolution 29/11, in which the Council requested the United Nations High Commissioner for Human Rights to prepare a compilation of best practices to counter the negative impact of corruption on the enjoyment of all human rights developed by States, national human rights institutions, national anti-corruption authorities, civil society and academia, for consideration by the Council at its thirty-second session.

GE.16-06200(E)

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I. Introduction

1. In its resolution 29/11, the Human Rights Council requested the United Nations High Commissioner for Human Rights to prepare a compilation of best practices of efforts to counter the negative impact of corruption on the enjoyment of all human rights developed by States, national human rights institutions, national anti-corruption authorities, civil society and academia, with a view to submitting it to the Council at its thirty-second session.

2. Accordingly, on 24 August 2015, the Office of the United Nations High Commissioner for Human Rights (OHCHR) wrote to all permanent missions to the United Nations Office at Geneva, national human rights institutions, civil society organizations and academic institutions to solicit input for the preparation of the present report, including input from national anti-corruption authorities. The correspondence was complemented by a questionnaire,[1] elaborated jointly with the United Nations Office on Drugs and Crime with a view to guiding and structuring contributions.

3. As at 21 March 2016, OHCHR had received responses from the following States: Argentina, Austria, Bahrain, Bolivia (Plurinational State of), Colombia, Cuba, Estonia, Georgia, Greece, Hungary, Ireland, Malta, Mauritius, Montenegro, Oman, Paraguay, Peru, Romania, Russian Federation, Saudi Arabia, Switzerland, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan and Ukraine. The following national institutions for the promotion and protection of human rights submitted contributions: Danish Institute for Human Rights, National Human Rights Commission of Mexico, Office of the Commissioner for Fundamental Rights of Hungary, Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, Office of the Ombudsman of Peru, Office of the Parliamentary Ombudsman of Finland and South African Human Rights Commission. The following civil society organizations submitted contributions: Al Khair Society for Relief and Charity Work (Libya), Asabe Shehu Yar' Adua (Nigeria), Brazilian Association of Women in Defence of Children and Adolescents (Brazil), Center for Grassroot Development and Crime Prevention (Nigeria), International Police Executive Symposium (United States of America), National Association for the Fight against Corruption (Algeria), New Line Social Organization (Afghanistan) and Niger Delta Budget Monitoring Group (Nigeria). The Washington and Lee University School of Law (United States of America) also submitted a contribution.

II. Contributions received from States Members of the United Nations

Argentina

4. The Government of Argentina emphasized that corruption had a negative impact on the enjoyment of human rights. It was therefore necessary to combat corruption as effectively as possible.

5. The Government described legislative amendments it had adopted in implementation of anti-corruption instruments, namely the Inter-American Convention against Corruption, the United Nations Convention against Corruption and the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organization for Economic Cooperation and Development, and in pursuance of the policy on crime. The amendments aimed at mitigating the negative effects of corruption for

[1] Available from www.ohchr.org/EN/Issues/Development/GoodGovernance/Pages/BestPractices.aspx.

society, with a resulting positive impact on the effective enjoyment and better protection of human rights of the population.

6. Measures undertaken included the adoption of a law on ethics in the exercise of the public function; instructions to strengthen the effectiveness of criminal investigations and procedures, including the freezing, seizure and confiscation of proceeds of corruption; and institutional measures to strengthen capacity and cooperation in specific areas such as corruption in the security forces, asset recovery, economic investigations, financial analysis and administrative investigations.

Austria

7. The Government of Austria underlined the importance of specialized knowledge and competence of judges and prosecutors in commercial and business law for effectively combating corruption. Tailored training courses were offered to judges and prosecutors in this regard. Human rights were also part of the judicial training.

8. With regard to the protection of human rights while combating corruption, the Government drew attention to the regulation of forfeiture of assets acquired for or through the commission of an offence, notably to the grounds for exclusion from forfeiture with regard to third persons and with regard to the person concerned if the objective could be achieved by less intrusive means.

9. It listed a number of human rights guarantees that applied in criminal prosecution of corruption cases, including the principles of objectivity and truth seeking; legality and proportionality; the right to a fair hearing; the need for expeditiousness; victim participation; and the right to a public hearing.

10. With regard to the protection of victims, the Government referred to the right of victims not to testify and to give evidence anonymously. It also shared information on its leniency programme and on an Internet-based anonymous system for reporting suspicions of corruption.

11. Austria's national anti-corruption authority shared information on its efforts to protect human rights in cases of reporting suspicions of corruption, cooperation with the competent authorities and prevention of corruption. It noted that human rights violations resulting from corruption-related offences could lead not only to criminal proceedings, but could also be brought before the Constitutional Court. A human rights perspective on corruption focused on the victim. Victims' access to court in corruption cases, including alleged human rights violations resulting from corruption, could be a powerful tool in preventing corruption.

12. Several national human rights mechanisms played an indirect role in combating corruption in Austria. The Austrian Ombudsman Board, for example, could receive complaints of alleged human rights violations. Alleged human rights violations caused by corruption could also be raised with the national prevention mechanism.

13. As part of its efforts to prevent corruption, the national anti-corruption authority provided training and education, including information on the negative impact of corruption on the enjoyment of human rights. The authority maintained contact and exchanged information on the prevention of corruption and human rights with national human rights institutions and civil society organizations. Austria was developing a network of integrity officers to promote ethical, human rights-compliant behaviour in the public administration.

14. Civil servants who reported in good faith well-founded suspicions of a criminal offence were legally protected against discrimination by their employer. A reporting office treated allegations of corruption and abuse of authority confidentially; reporting persons

could set up a mailbox on a whistle-blower website and exchange information with investigators while remaining anonymous.

Bahrain

15. The Government of Bahrain underlined that one of the reasons for criminalizing bribery in the public and private sectors was the negative impact of bribery on the enjoyment of human rights and the violation of the principle of equal opportunity. It shared information on constitutional and legal guarantees to protect the human rights of suspects and of victims in anti-corruption criminal procedures.

16. Bahrain had no memorandum of understanding or other formal arrangement on coordination and cooperation between the national anti-corruption agency and the national human rights institution. All entities worked as one organization and coordination existed at all levels; there was therefore no need for such a memorandum.

17. The Government also shared information on its regulatory framework for asset declaration and on the protection of victims and witnesses, which could include change of place of residence, change of identity and a prohibition or restriction on providing information relating to the identity and residence of the persons requiring protection. Bahrain relied on audio and visual technology to register testimonies for use in criminal proceedings for the protection of victims and witnesses.

Bolivia (Plurinational State of)

18. The Government of the Plurinational State of Bolivia stressed that corruption had a negative impact on State property and diminished the resources available for public services. It thus constituted a structural obstacle to the enjoyment and realization of human rights. The fight against corruption could have positive effects on the realization of human rights, and the promotion of human rights could prevent corruption. Moreover, the fight against corruption could be fully effective only through a human rights approach.

19. The Government underlined the importance of the principles of public disclosure and transparency in public administration. Access to information was particularly important to ensure social control of public spending and management.

20. The national policy to promote transparency and combat corruption built upon two fundamental principles, human rights and social dialogue. It sought to strengthen citizens' participation, transparency in public management and the right of access to information. Access to information, social control, public ethics and public accountability were also constitutional principles.

21. The Government shared information on the protection of witnesses and reporting persons, the establishment of "transparency units" in each ministry, public outreach and education activities, and international cooperation.

Colombia

22. The Government of Colombia highlighted the convergence of the principles underpinning good governance, anti-corruption and the realization of human rights. One important element in the fight against corruption was access to information and social control, such as public hearings to ensure accountability of the public administration. The statutory law on transparency and access to information regulated access to public information, the procedures for exercising the right and the exceptions. The Government also drew attention to the importance of e-government or government online, which contributed to making the State more efficient, transparent and participatory. Another initiative was the creation of a transparency and anti-corruption observatory, which aimed

at improving transparency in public management and included citizen participation. The observatory had developed indicators for measuring good governance, including anti-corruption measures.

Cuba

23. The Government of Cuba underlined the importance of the United Nations Convention against Corruption, the Conference of the States Parties, the review mechanism and the intergovernmental working groups for the prevention and suppression of corruption. Cuba undertook numerous education and awareness-raising activities for all actors of society on the importance of combating corruption, which also contributed to the realization and enjoyment of human rights. The Government also drew attention to the importance of civil society organizations in the review of the implementation of the Convention.

24. Global structural causes made it impossible to eradicate corruption at the national level alone. Increased cooperation from developed countries was therefore necessary to ensure the effective implementation of the Convention, in particular the return of assets to developing countries, which would contribute to sustainable development and the realization of the rights of the peoples in those countries.

Estonia

25. Estonia has integrated a human rights perspective into the preventive measures of its anti-corruption strategy. The Government referred to corruption in the heath sector, which could lead to a violation of the right to health. Consequently, the anti-corruption strategy provided for increasing transparency in the health-care sector as a preventive measure. More generally, however, the Government was of the view that not only preventive but also all anti-corruption measures indirectly addressed the negative impact of corruption on the enjoyment of human rights; therefore, all anti-corruption measures and activities implicitly incorporated human rights considerations.

26. In Estonia, the only corruption cases where human rights played a determining role were criminal proceedings where human rights violations were alleged, such as in the context of surveillance activities.

27. The Government described recent amendments to the Penal Code with regard to some corruption offences to make regulation more efficient and clear. Bribery of public officials and in the private sector became two separate offences and the distinction between "gratuity" and "bribe" was removed.

28. Anonymity was granted to reporting persons to ensure their protection. The Government had set up a special e-mail address and hotline for reporting.

29. Evidence gathered through surveillance activities was inadmissible in court if the process violated the *ultima ratio* principle. Surveillance activities were permitted only on the basis of the Code of Criminal Procedure if it was impossible to collect data otherwise or in time, or if the collection was especially complicated or damaged the interests of the criminal proceedings.

30. The confiscation of proceeds of corruption was possible only in accordance with the provisions of the Penal Code. The Government also shared information on the country's legislative and practical framework for the protection of witnesses, their family members and whistle-blowers.

Georgia

31. The Government of Georgia emphasized that corruption led to human rights violations, making the prevention and suppression of corruption in the public and private sector a priority. The Government's anti-corruption strategy therefore focused on human rights protection. The main objective was to achieve a high level of transparency and accountability, to increase access to public information, to enhance citizen involvement, to strengthen corruption prevention mechanisms and to take advantage of new technologies.

32. Instrumental in that regard was the effective enforcement of human rights, including the right of access to public information, protection of whistle-blowers, political rights and free trial guarantees.

33. In Georgia, the entire system of corruption prevention and suppression was based on the right to participation. The Anti-Corruption Council, for example included representatives from civil society organizations, international organizations, donors and business associations. The anti-corruption strategy itself had been elaborated through a participatory process. Access to information by members of civil society and their participation in the fight against corruption was one of the strategic priorities of the national anti-corruption strategy. Electronic communications services allowed citizens to file requests for public information. Civil society organizations played an important role in measuring progress and evaluating the implementation of the national anti-corruption action plan.

34. As a means to foster transparent, accountable and corruption-free governance systems, Georgia had established an online system for procurement and financial declarations by public officials and for treasury and budget programmes, overhauled the regulation on the funding of political parties and drafted a law regulating access to public information.

35. Another important element of the anti-corruption strategy was the protection of whistle-blowers. That entailed the possibility of anonymous and confidential reporting and protection from retaliation, intimidation, oppression, coercion, humiliation, moral or material damage, use or threat of violence, discrimination or any other illegal act.

36. The right to a fair trial was one of the bases for creating a corruption-free environment. Georgia had adopted several measures to ensure the independence of the judiciary.

Greece

37. The Government of Greece reported that its anti-corruption strategy was indirectly and implicitly based on human rights principles. An independent judiciary, freedom of the press, freedom of expression, access to information, transparency in the political system and accountability were essential for a successful anti-corruption strategy. Moreover, the strategy included preventive measures to a great extent, which prevented at the same time the negative impact of corruption on the enjoyment of human rights.

38. The Government observed that there was a strong connection between anti-corruption principles (participation, transparency, access to information, accountability) and the scope of human rights (freedom of expression and of the media, access to information, non-discrimination). Human rights and anti-corruption efforts were mutually reinforced by promoting the necessary elements of good governance, civil and political rights, transparency and accountability.

39. With that in mind, Greece undertook numerous institutional, legislative, policy and educational measures to combat corruption. They included awareness-raising, education,

access to information, witness and whistle-blower protection, an effective, independent and impartial judiciary, transparency of political party financing and coordination mechanisms.

Hungary

40. The Government of Hungary pointed out that the negative impact of corruption on the enjoyment of human rights posed complex problems. Besides numerous efforts to suppress corruption and to recover the proceeds of corruption, the Government described a number of examples where human rights considerations were particularly relevant, including legal guarantees in the context of special investigative techniques and in the context of confiscation procedures. It also highlighted the importance of judicial integrity and of an effective witness protection programme, which included not only witnesses but also victims, and their representatives, experts, interpreters and family members.

41. The Office of the Commissioner for Human Rights operates an electronic system for secure reporting of suspicions of corruption. During the inspection of places of detention and prisons, special care was taken to identify possible illicit relationships between prisoners and prison personnel and to corruption in connection with alleged ill-treatment of persons deprived of their liberty.

Ireland

42. The Government of Ireland drew attention to the negative direct and indirect impact of corruption on the enjoyment of human rights. In order to better combat corruption while at the same time safeguarding human rights, Ireland sought to provide greater clarity with regard to some corruption offences but also to ensure that penalties were proportionate to the damage of corruption to society.

43. The Government shared information on its whistle-blower protection system, which extended beyond its borders. Whistle-blowers abroad could report suspected corruption offences to diplomatic and consular officers or members of law enforcement of the State concerned.

44. While the Irish national human rights institution was not specifically mandated to deal with corruption, its mandate to promote and protect human rights encompassed corruption where it affected human rights. An example of an activity in that regard was the observations of the institution on draft whistle-blower legislation.

45. The Government was of the view that national human rights institutions and regional networks of national human rights institutions were well placed to assess the implications of corruption on human rights, the rule of law, democracy and economic freedom and to work together with national Governments for improved governance and improved functioning of public institutions and the market.

Malta

46. The Government of Malta stressed that preventive measures were among the most effective means of countering corruption and avoiding its negative impact on the enjoyment of human rights. Malta called for a stronger focus on the rights of victims of corruption and on States' responsibility to combat corruption in order to meet their obligations to promote and protect human rights.

47. Reforms aiming at greater transparency were therefore important for combating corruption. Malta had adopted several legislative and institutional steps in that regard, including a code of ethics, a freedom of information act and whistle-blower protection.

48. The Government also reported on challenges that required further action, such as the lack of a monitoring mechanism to ensure compliance with the code of ethics, to verify

asset declarations and to regulate lobbying. It highlighted the importance of transparency in making judicial appointments and decision-making in environmental planning.

49. Malta shared its positive experience with a reform to address vulnerability to corruption in environmental planning and the granting of development permits. A recent legislative act contained provisions on disclosure of conflicts of interests of staff members and consultants of the Malta Environment and Planning Authority. Failure to disclose an interest could result in removal from office or termination of contract. As an additional safeguard, relevant proceedings and hearings were held in public. Moreover, the Ombudsman Act was amended to allow the Ombudsman to appoint commissioners for administrative investigations; that led to the appointment of a Commissioner for Environment and Planning to investigate complaints related to the Malta Environment and Planning Authority. The Commissioner has the power to require the production of documents, summon witnesses and report to Parliament. Since the reform, the number of complaints had decreased.

Mauritius

50. The Government of Mauritius expressed the view that corruption could violate human rights, had negative impacts on the enjoyment of human rights, increased inequality and caused poverty. Corruption created discrimination and inequality of opportunity, especially with respect to employment, promotion, access to services and opportunities. Those who were disadvantaged economically and politically suffered disproportionately from the consequences of corruption because they were particularly dependent on public goods.

51. The Government expressed the belief that the fight against corruption could be complemented by respect for human rights standards, methods and mechanisms, as both pursued the same objective: a society where justice, fairness, honesty, equality and integrity prevailed for the benefit of the population. Prevention and suppression of corruption ultimately promoted human rights and asset recovery was a means to provide redress.

52. The national human rights institution transmitted allegations of corruption to the national anti-corruption agency. The Government drew attention to the principles common to achieving human rights and to fighting corruption. A common understanding of the problem and of its impact and close collaboration could result in a more effective outcome. Possible joint actions included outreach and education campaigns and research.

53. The Government underlined the importance of upholding the rights of the accused in the investigation and prosecution of suspected cases of corruption as well as during confiscation procedures. It also shared information on its legislation for the protection of witnesses and informers. Finally, it expressed the view that indicators might help to measure the negative impact of corruption on human rights.

Montenegro

54. The Government of Montenegro reported that under its Law on Prevention of Corruption the national anti-corruption agency had the authority to assign proceedings to other competent authorities, which allowed for cooperation with the national human rights institution. The anti-corruption agency was an independent body that carried out its functions free from any undue influence.

55. The Government shared information on the legal requirements for the investigation and prosecution of corruption as well as for the recovery of stolen assets.

56. The Law on Prevention of Corruption strengthened the protection of whistle-blowers. The definition of whistle-blower covered public and private sector employees.

Public interest was broadly defined and protection was guaranteed for a broad spectrum of reports of irregularities and unethical behaviour. There was a clear procedure to be followed to report suspicions of corruption. Montenegro established an external independent authority which guaranteed comprehensive protection of whistle-blowers, complementary to the judicial protections of whistle-blowers against discrimination and harassment at work.

Oman

57. The Government of Oman provided information on its criminal law and criminal procedure law on combating corruption while respecting human rights. The State's anti-corruption agency was legally, financially and administratively independent.

Paraguay

58. The Government of Paraguay highlighted the importance of transparency, integrity, good governance and prevention of corruption in public policies. It established a national anti-corruption agency with the mandate to coordinate, implement and monitor public policies in the areas of transparency and integrity.

59. The Government reported on the State's participation in international and regional anti-corruption conventions and its cooperation with the relevant review mechanisms. Several inter-institutional cooperation agreements had been concluded to coordinate the implementation of policies of transparency, integrity and anti-corruption. The Government also reported on the National Plan for the Prevention of Corruption and the creation of transparency and anti-corruption units. A series of lectures and seminars aimed at strengthening public ethics, transparency and integrity and anti-corruption had been organized.

60. The Government carried out an institutional diagnostic of transparency, anti-corruption and good practices in public institutions and adopted a law on free access to public information and governmental transparency.

Peru

61. The Government of Peru highlighted the importance of open government, transparency and access to public information as important elements to ensure accountability of public entities and respect for human rights.

62. The State's national human rights action plan aimed, inter alia, at consolidating the mechanisms for access to public information, including by strengthening the system for reporting suspicions of corruption. Similarly, the national plan for education on fundamental rights and responsibilities recognized that the creation of a human rights culture required combating corruption. The Government shared examples of inter-institutional and transnational cooperation and coordination in the area of open government and anti-corruption.

63. It highlighted that corruption affected the society in general, which could be seen from perception indices. The rate of identification and prosecution of corruption cases indirectly determined the realization of human rights.

64. Peru included human rights considerations in its self-assessment of implementation of the United Nations Convention against Corruption with regard to extradition. Peru interpreted the relevant provision in conformity with the pertinent national legislation on this subject, which stipulated that its international judicial cooperation should be governed by international treaties ratified by Peru and in the absence thereof by the principle of reciprocity, with due respect for human rights. Consequently, extradition must adhere to

human rights principles, which could be the basis for rejecting a request for extradition, for example in cases of trials in absentia.

65. The Government reported on initiatives that aimed at improving the fight against corruption, integrity and protection against human rights violations, such as the recovery of assets from abroad in the corruption case involving the former head of the intelligence service, Vladimiro Montesinos, and its whistle-blower protection law.

Romania

66. The Government of Romania recalled that corruption led to human rights violations and that fighting corruption safeguarded human rights. It shared information on its efforts to criminalize corruption, including the establishment of a specialized anti-corruption prosecutor's office, and its legal framework for confiscation of the proceeds of corruption.

67. It also shared information on legal provisions for the reduction of or exemption from criminal punishment of cooperating persons.

Russian Federation

68. The Government of the Russian Federation drew attention to the rights of victims of corruption, whether natural or legal persons. Entities and persons who had suffered damage because of an act of corruption had the right to initiate legal proceedings against those responsible in order to obtain compensation. In that context, the Government highlighted the importance of seizing, freezing and confiscating proceeds of corruption.

69. With a view to ensuring transparency in the fight against corruption, the Russian Federation sought to strengthen social control mechanisms, including those concerning business representatives. The Government provided statistical information on anti-corruption cases and some examples of high-level cases and shared information on the protection of reporting persons.

Saudi Arabia

70. The Government of Saudi Arabia reported that its national anti-corruption agency and national human rights institution worked side by side to achieve equality of all members of society, by preventing preferential treatment and ensuring accountability. Among the tasks of the anti-corruption agency was deciding on corruption cases, including compensation for those whose rights and interests had been infringed by corruption.

71. The anti-corruption agency paid great attention to the protection of victims, witnesses, whistle-blowers and anti-corruption activists, primarily by ensuring confidentiality.

72. The Government highlighted the importance of an independent judiciary, freedom of expression, accountability, integrity and civil society participation in combating corruption.

73. It drew attention to the obligation under United Nations Convention against Corruption to promote the reintegration into society of persons convicted of offences established in accordance with the Convention and to its national legislation in that regard.

Switzerland

74. The Government of Switzerland highlighted the importance of a human rights-based approach to the existing anti-corruption framework. This complementary perspective was intended to strengthen the systemic responsibility of the State and the position of the victim.

75. References to human rights in its self-assessment of implementation of the United Nations Convention on Corruption related to provisions of Swiss law, which prohibited

extradition or other forms of international cooperation in corruption cases where foreign proceedings did not fulfil the standard set by the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention of Human Rights) and the International Covenant on Civil and Political Rights.

Trinidad and Tobago

76. The Government of Trinidad and Tobago reported that it had established an Integrity Commission to prevent corruption of persons in public life. The Commission was empowered to receive complaints alleging that a person in public life or any person exercising a public function had acted in contravention of the Integrity in Public Life Act, or had a conflict of interests in relation to the Register of Interests, or was committing or had committed an offence under the Prevention of Corruption Act.

77. As an example of the incorporation of human rights considerations in its self-assessment of implementation of the United Nations Convention on Corruption, the Government referred to the establishment of the Regional Justice Protection Programme, which provided for the protection of witnesses, experts and victims on a regional basis, facilitating international cooperation.

78. Another example was the Police Complaints Authority, an independent body responsible for investigating, inter alia, police corruption. As part of its mandate, it engaged in outreach programmes designed to educate and sensitize the public. With a view to securing the independence of the Authority, its director and deputy director were appointed by the President on the joint advice of the Prime Minister and the Leader of the Opposition. The Authority was responsible only to the Parliament.

Tunisia

79. The Government of Tunisia reported that the Constitution of Tunisia linked the eradication of corruption with human rights principles. The implementation of the Constitution implied that combating corruption was undertaken to guarantee and protect the enjoyment of human rights, the principles of equality, equity and non-discrimination and economic, social and cultural rights. Respect for freedom of expression, including the right of access to information, contributed to the fight against corruption, given the important role of the media and of civil society in uncovering corruption and in fostering a culture of integrity.

80. Human rights and human rights principles were thus an important element in the fight against corruption. They were recognized in codes of conduct and formed the basis for the approach and implementation of anti-corruption policies and programmes.

81. The national human rights institution of Tunisia was empowered to receive complaints of human rights violations, including those related to corruption. It received in particular complaints about the treatment in prisons and detention centres. The institution examined the complaints in coordination with the concerned entities with a view to providing redress to the victims.

82. Tunisia recognized the need for interaction and cooperation between the anti-corruption agency and the human rights institution in collecting data and promoting public awareness of the negative impact of corruption. At present, however, there were no specific mechanisms or focal points for facilitating cooperation.

83. The Government drew attention to the Open Government Partnership initiative and the initiative to create an Arab corruption court. It underlined the importance of an independent judiciary as a central element in the fight against corruption and for the protection of human rights and the rule of law.

84. The Government underlined the importance of an independent anti-corruption agency, with the power to investigate and receive complaints. It was important for the president and members of the agency to enjoy immunity in the exercise of their functions.

Turkey

85. The Government of Turkey drew attention to the principle of transparency as a main element in the fight against corruption. It shared information on the reform of its procurement system to ensure that bidding procedures guaranteed competition, transparency and equal treatment, increased savings and efficiency and prevented irregularities. A public procurement institution considered complaints regarding the bidding procedures and played a crucial role in safeguarding the constitutional principles of the right to a remedy and equality before the law. Another measure concerned the regulation of asset declarations and the prohibition on receiving gifts.

86. In Turkey, the right to information was recognized as a constitutional right. A communications centre had been established as a further step to ensure transparency and integrity. The Government also shared information on the protection of whistle-blowers.

87. The Government highlighted the role of the ombudsman institution in the promotion and protection of human rights as well as in the fight against corruption, in particular the complaints procedure. Another important institution was the ethics board of public servants, which conducted investigations into misconduct and reviewed asset declarations.

Turkmenistan

88. The Government of Turkmenistan emphasized that corruption was a major obstacle to the realization of human rights and disregarded basic human rights principles, namely transparency, accountability, non-discrimination and participation. Compliance with those principles was the most effective means to combat corruption.

89. The main principles underpinning the efforts to combat corruption in Turkmenistan were recognition and enforcement of the rights and freedoms of citizens, in particular to be protected from corruption; protection of the rights and interests of legal entities and individuals; equality before the law; the protection of persons assisting in the fight against corruption, transparency and openness of public authorities; control by the society and the State; and the use of integrated political, legal, advocacy and socioeconomic measures.

90. The Government drew attention to the importance of fostering a climate of intolerance of corruption. It also drew attention to the qualification requirements for citizens applying for public service positions and to the grounds for dismissal and promotion.

91. It highlighted the importance of victim and witness protection as well as the importance of freedom of the media and the special role of the prosecutor.

Ukraine

92. The Government of Ukraine highlighted the transnational character of corruption and the consequent need for international cooperation. It also highlighted the importance of restoring the rights of citizens who were victims of corruption.

93. The Government drew particular attention to open and transparent competitive recruitment to the national anti-corruption bodies, their independent status and the necessary safeguards.

III. Contributions received from national human rights institutions

Danish Institute for Human Rights

94. The Danish Institute for Human Rights drew attention to the importance of whistle-blower protection, in both the public and the private sector. Effective protection, including the possibility for anonymous reporting without fear of repercussions or reprisals, encouraged employees to exercise their right to freedom of expression and report suspicious conduct. The Institute expressed the view that in Denmark safeguards against corruption were firmly grounded in integrity. The Institute also drew attention to the importance of protecting the rights of the persons accused of corruption.

National Human Rights Commission of Mexico

95. The National Human Rights Commission of Mexico shared information on its internal control and monitoring system and on its declarations of assets and interests.

96. The Commission also drew attention to the National Human Rights Programme, which required the establishment of mechanisms for accountability and access to information. The programme additionally required ensuring the institutionalization of a human rights approach in the programmes of the Federal Public Administration, including the programme to fight corruption. The Commission shared detailed information on the anti-corruption legal framework, including with regard to access to information, transparency, declaration of assets and interests, codes of conduct and the institutional set-up for coordination.

Office of the Commissioner for Fundamental Rights of Hungary

97. The Office of the Commissioner for Fundamental Rights of Hungary shared information on its power to receive individual complaints and notifications of general interest, the latter defined as a notification that drew attention to circumstances whose remedy or termination was necessary in the interest of the community or society as a whole. Whistle-blowers could submit such notifications via a protected electronic system and request that their personal data be accessible only to the Office. The Commissioner could inquire into the handling of notifications by public bodies upon request from individuals or on its own motion. The Office had the power to request documents and information, hold hearings and in situ examinations and address recommendations to the body that was the subject of the inquiry or its supervisory organ.

98. The Office participated in the anti-corruption and integrity working group. In relation to the operation of the whistle-blower protection programme, the Office had concluded a cooperation agreement with the National Protection Service under the Ministry of the Interior. The Office also participated in education, training and awareness-raising activities on the prevention of corruption and integrity.

Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan

99. The Ombudsman's Office of Azerbaijan reported that it had a mandate to investigate corruption as a cause of human rights violations, in cooperation with relevant State authorities, with a view to preventing and suppressing corruption and to ensure redress to victims of corruption. The Office carried out awareness-raising activities to draw attention to the importance of preventing corruption as a threat to human rights.

100. The Office had the power to receive individual complaints. In the event of a complaint of corruption, the Office would inform the competent public institution, such as the Office of the Prosecutor General, and request it to take the necessary action. The Ombudsman had made several requests to the Judicial-Legal Council in cases of abuse of power by judges.

101. The Office submitted observations to the parliament on the draft Code of Conduct of Civil Servants and the Law on Preventing Conflict of Interests of State Officials on their compatibility with human rights.

102. The Office appointed a special adviser on corruption in order to strengthen its cooperation with anti-corruption agencies. During visits to places of detention, the Office informed detainees about the anti-corruption legal framework and the competence of the Ombudsman.

103. A representative of the Office participated as a member of the Commission on Anti-Corruption in the elaboration of anti-corruption strategies and programmes. The Office also cooperated with the Council of Europe Group of States against Corruption and the national chapter of Transparency International.

Office of the Ombudsman of Peru

104. The Office of the Ombudsman of Peru analysed sectors at particular risk of corruption and published several reports in that regard. The report on education showed that corruption affected the core content of the right to education and its essential features (availability, accessibility, acceptability and adaptability). The report identified three conditions that enabled acts of corruption, namely inefficient mechanisms of control and sanction; weak mechanisms of transparency and limited access to information; and weak citizen control. The areas most frequently affected by corruption and the main risk factors included impunity, illicit charges and fees, selling of grades in academic institutions, nepotism, irregularities in administrative procedures, irregularities in the appointment and movement of personnel, lack of transparency and irregularities in the management of educational material.

105. The report on social programmes evaluated in particular a programme under which direct financial support was provided to the poor. Acts of corruption occurred during the different phases of the programme. Contributing factors included lack of effective control mechanisms.

106. Another report contained a chapter on corruption in the penitentiary system. The report concluded that corruption constituted a factor that affected not only the institution but also citizens' security and the principle of authority.

107. Finally, the Office published a report analysing charges of graft and collusion. The study identified a range of challenges in investigating corruption, including the need for prosecutors with specialized capacity and adequate budgets.

Office of the Parliamentary Ombudsman of Finland

108. The Office of the Parliamentary Ombudsman of Finland reported that it had the power to investigate complaints lodged by individual persons, associations, enterprises or litigating lawyers or to instigate proceedings on its own motion. The Office had wide-ranging powers to obtain information, to order that the police carry out a preliminary investigation and to order criminal charges to be brought against public officials.

109. The Office received only a very small number of individual complaints of suspected or alleged corruption. It included in its submission four cases, all related to the acceptance of gifts and hospitality by public officials.

South African Human Rights Commission

110. The South African Human Rights Commission reported that it considered the right of access to information to be a key element in the fight against corruption. The Commission was mandated to monitor compliance with the Promotion of Access to Information Act and established a dedicated unit for that purpose. The unit handled complaints regarding access to information, which involved issues of whistle-blowing and corruption. The Commission investigated allegations and took steps to remedy human rights violations, including by approaching the courts and preparing reports of adverse findings.

111. The Commission also engaged with the African Commission on Human and Peoples' Rights in the drafting of the Model Law of Access to Information for Africa.

112. The Commission highlighted the importance of the principles of open contracting in the tender and award of contracts by Government and private companies, as corruption often occurred as a result of the maladministration of contracts. That was particularly important in instances where private companies were contracted to fulfil basic services and socioeconomic rights.

113. A complaint to the Commission concerning corruption could be referred to another body that was more suitable for dealing with the issue, such as the Office of the Public Prosecutor, the Special Investigation Unit or the Asset Forfeiture Unit. In some instances, the Commission worked together with another body in the investigation of a complaint where there was a clear overlap with human rights concerns.

114. The Commission drew attention to a landmark judgment of the Constitutional Court in which the Court clearly articulated the relationship between corruption and the non-realization of human rights. The Court observed that corruption undermined the constitutional commitment to human dignity, the achievement of equality and the advancement of human rights and freedoms. It concluded that courts dealing with corruption cases must send out an unequivocal message that corruption would not be tolerated and that punishment will be appropriately severe.

115. The Commission was also mandated to monitor the implementation of the National Development Plan: Vision 2030, inter alia, with a view to assessing the extent to which the anti-corruption strategies employed in the plan could serve to promote human rights.

116. The Commission also provided comments on the bill to amend the Protected Disclosures Act, in the context of ensuring compliance with the rights to freedom of expression, access to information, freedom and security of the person, fair labour practices and just administrative action.

IV. Contributions received from civil society organizations and academia

Al Khair Society for Relief and Charity Work

117. The Al Khair Society for Relief and Charity Work highlighted the importance of training to improve the technical skills of the relevant authorities involved in the fight against corruption. In this regard, it drew attention to cooperation with specialized institutions such as the Basel Institute on Governance and to the principles of transparency and accountability, the importance of adequate salaries in the public service and the importance of disseminating information on corruption cases.

Asabe Shehu Yar' Adua

118. Asabe Shehu Yar' Adua stressed that the impact of corruption on human rights was not confined within national borders. In its view, corruption weakened the accountability structures responsible for protecting human rights. The organization observed that corruption had a negative impact in particular on the disadvantaged segments of the population. It suggested that putting in place procedures for claiming human rights was an effective mechanism for combating corruption as human rights principles and institutions were essential components of successful and sustainable anti-corruption strategies. It also drew attention to the possibility of using regional and international human rights monitoring mechanisms to combat corruption. It suggested establishing joint committees of anti-corruption agencies and national human rights institutions.

Brazilian Association of Women in Defence of Children and Adolescents

119. The Brazilian Association of Women in Defence of Children and Adolescents highlighted the importance of transparency in fiscal management, in particular the legal obligation to disclose public spending and all financial transactions, which it considered to be the main tool for combating corruption. It drew attention to the Clean Record Law, which disqualified politicians who were convicted of violations of electoral statutes or crimes involving the use of public funds, including corruption, from running for office for at least eight years. It also drew attention to the corruption-specific recommendations contained in International Organization for Standardization (ISO) 26000 on social responsibility. With regard to the protection of victims and witnesses, the organization expressed concern over lack of commitment and budgets for the implementation of the various programmes.

Center for Grassroot Development and Crime Prevention

120. The Center for Grassroot Development and Crime Prevention drew attention to the negative impact of corruption on the enjoyment of human rights, in particular the right to health. The organization recommended, inter alia, imposing severe penalties for crimes of corruption, enforcing laws that aimed to prevent and suppress corruption, strengthening witness protection and providing incentives to change attitudes and behaviour with regard to corruption.

International Police Executive Symposium

121. The International Police Executive Symposium suggested distinguishing between petty and grand corruption. The former tended to be pervasive, involving small amounts of money, and was best tackled by addressing the economic conditions and culture of work of public servants. The latter involved large amounts, often saved in bank accounts or invested in developed countries, and was best tackled by preventing the corruptor from enjoying the benefits. With regard to police corruption, the organization recommended that efforts be made to professionalize police forces.

National Association for the Fight against Corruption

122. The National Association for the Fight against Corruption drew attention to the direct and indirect negative consequences of corruption on the human rights of individuals, groups and society.

123. The organization supported complementing traditional anti-corruption efforts, which focused on suppression and to a lesser degree on prevention and reparation, by a human rights-based approach, which was victim-centred.

124. The organization drew attention to the similarities of anti-corruption principles (participation, transparency, access to information, accountability) and human, primarily civil and political, rights (freedom of expression and the media, including the right of access to information, freedom of assembly and association, independence of the judiciary, equality and non-discrimination and the right to strike).

125. The organization highlighted the importance for national human rights institutions and anti-corruption bodies to be independent and have broad powers. It also highlighted the importance of civil society space in the fight against corruption, as well as the role of supreme audit institutions.

New Line Social Organization

126. The New Line Social Organization highlighted the negative impact of corruption on development and human rights. It called for human rights education and awareness-raising, independent anti-corruption bodies, development, creation of employment opportunities, security and democracy as means to combat corruption.

Niger Delta Budget Monitoring Group

127. The Niger Delta Budget Monitoring Group highlighted the importance of an independent judiciary and of law enforcement for the protection against corruption. The organization recommended the adoption of a memorandum of understanding between the National Human Rights Commission of Nigeria and the national anti-corruption bodies. It also recommended elaborating a whistle-blower protection law.

Washington and Lee University School of Law

128. The Washington and Lee University School of Law highlighted the importance of human rights and anti-corruption education, which sensitized students to the effects of corruption, prepared them to enter the workforce with an understanding of ways and means to identify and combat corruption and could be an effective tool to combat corruption. The law school was implementing a joint anti-corruption and human rights programme with the Law School of the University of Liberia to share students' knowledge of anti-corruption and human rights with the community and local organizations.128.

V. Analysis and conclusions

129. Respondents shared the view that corruption has a negative impact on the enjoyment of human rights and can lead to or directly constitute human rights violations. Economically and politically marginalized groups were at particular risk of the adverse effects of corruption. Respondents stressed that corruption undermined the capacity of States to protect and fulfil their human rights obligations, more specifically the obligation to take steps, to the maximum of available resources, with a view to achieving progressively the full realization of economic, social and cultural rights. They further emphasized that corruption could lead to discrimination and violated the principle of equality. Therefore, States were duty bound to combat corruption.

130. Several respondents highlighted the importance of a human rights-based approach to combating corruption. Respondents argued that a human rights-based approach would complement the mainstream, or traditional, anti-corruption efforts, which tended to focus on the perpetrator, individual criminal responsibility and suppression. The human rights-based approach, on the other hand, focused on the victim, on State responsibility and on prevention and redress.

131. **Several respondents drew attention to the correspondence of anti-corruption and human rights principles. Respondents also stressed the instrumental role of human rights for preventing and combating corruption. They drew attention, in particular, to freedom of expression, the right of access to information, freedom of the media, freedom of assembly and association, and protection of victims and witnesses, whistle-blowers, reporting persons, anti-corruption activists, investigative journalists, prosecutors, lawyers and judges. Respondents also emphasized the importance of education, including human rights and anti-corruption education, and training to prevent corruption.**

132. **Respondents underlined the importance of an independent and impartial judiciary.**

133. **Respondents also stressed the importance of safeguarding human rights in efforts to combat corruption. They explicitly mentioned the definition of specific corruption crimes, the crime of illicit enrichment, special investigative techniques, prosecution and judicial proceedings, and the recovery of stolen assets and third-party rights.**

134. **Respondents shared examples of work undertaken by national human rights institutions and their cooperation with anti-corruption authorities. National human rights institutions could play an important role by awareness-raising and educational and training activities, through their complaint handling procedure, through investigations and analysis, and by commenting on draft laws or proposing amendments to existing laws.**

135. **Several respondents highlighted the opportunities provided by information and communications technology to strengthen transparency and accountability, to prevent and detect corruption, to investigate corruption and to protect victims, witnesses and whistle-blowers.**

136. **Respondents recommended using indicators for measuring the negative impact of corruption on the enjoyment of human rights.**

137. **References to human rights in self-assessment of implementation of the United Nations Convention against Corruption concerned the importance of human rights protection in the context of extradition requests.**

138. **Respondents also highlighted the transnational character of corruption and the consequential need for international cooperation to prevent and suppress corruption and to recover illicit assets.**

United Nations A/HRC/32/23

General Assembly

Distr.: General
6 May 2016

Original: English

Human Rights Council
Thirty-second session
Agenda items 2 and 3
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health is submitted pursuant to Human Rights Council resolution 29/15. In the study, the Office of the United Nations High Commissioner for Human Rights examines the impacts of climate change on human rights, particularly the right to health; related human rights obligations and responsibilities of States and other actors; and the elements and benefits of a rights-based approach to addressing climate change. It concludes with several recommendations.

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I. Introduction

1. The present study is submitted pursuant to Human Rights Council resolution 29/15, in which the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to conduct a detailed analytical study, in consultation with relevant stakeholders, on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. On 21 August 2015, OHCHR circulated a note verbale and questionnaire to Member States requesting inputs for the study. Communications were also sent to other stakeholders, including civil society organizations, international organizations and national human rights institutions. These inputs were summarized in a conference room paper[1] prepared by OHCHR in advance of the Human Rights Council panel discussion on climate change and the right to health which was held on 3 March 2016.[2] The panel discussion, the above-mentioned written submissions and independent research have informed the study.

3. In the present study, OHCHR examines the impacts of climate change on human rights, particularly the right to health, related human rights obligations and responsibilities of States and other actors, and the elements and benefits of a rights-based approach to addressing the impacts of climate change on human health. It concludes with concrete recommendations for fulfilling human rights obligations, particularly those relating to health, in the context of climate change.

II. Impacts of climate change on enjoyment of the right to health

4. All human rights are universal, inalienable, indivisible, interdependent and interrelated. In the context of the right to health, these characteristics are eminently clear. Enjoyment of the right to health is contingent upon the availability of, inter alia, good quality health services, safe working conditions, adequate housing, food, water and sanitation, a healthy environment, and education, all on the basis of non-discrimination, as well as broad stakeholder participation in health policy formulation and implementation.[3] Climate change is real, human-made greenhouse gas emissions are its primary cause, and it contributes, among other things, to the increasing frequency of extreme weather events and natural disasters, rising sea levels, floods, heatwaves, drought and the spread of tropical and vector-borne diseases.[4] These extremes alter ecosystems, disrupt food production and water supply, damage infrastructure and settlements and increase morbidity and mortality. They are also responsible for the displacement of affected communities, among whom an important consequence is an increased incidence of poor mental and physical health. Thus, climate change directly and indirectly threatens the full and effective enjoyment of a range of human rights, including the rights to life, water and sanitation, food, health, housing, self-determination, culture and development.

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[1] The questionnaire, the original inputs received and their summary are available from www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/StudyImpact.aspx. In the present study, references to stakeholder inputs will be to "(Stakeholder name) input".

[2] The summary report of the panel is contained in A/HRC/32/24. Full statements are available from www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/StudyImpact.aspx.

[3] In paragraph 3 of its general comment 14 (2000) on the right to the highest attainable standard of health, the Committee on Economic, Social and Cultural Rights states that the right to health is closely related to and dependent upon the realization of other human rights.

[4] See Intergovernmental Panel on Climate Change, *Climate Change 2014: Synthesis Report*.

5. Many of the negative impacts of climate change, such as loss of livelihood, reductions in crop yields, destruction of homes, increased food prices and food insecurity, are disproportionately borne by persons and communities already in disadvantageous situations owing to geography, poverty, gender, age, disability, or cultural or ethnic background, among others, who have historically contributed the least to greenhouse gas emissions. In the Fifth Assessment Report of the Intergovernmental Panel on Climate Change it is stated that people who are socially, economically, culturally, politically, institutionally or otherwise marginalized are especially vulnerable to climate change and also to some adaptation and mitigation responses.[5] For example, the biofuel agro-industry, hydroelectric power and forest conservation efforts can contribute to food insecurity and displacement. Persons, communities and even entire States that occupy low-lying coastal lands, tundra and Arctic ice, arid lands and other delicate ecosystems and territories at risk and rely upon such land for housing and subsistence, face substantial risks of displacement.

6. The World Health Organization (WHO) maintains that climate change is affecting health now, and will do so in the future. WHO describes the main health risks posed by climate change as more intense heatwaves and fires; increased prevalence of food-, water- and vector-borne diseases; increased likelihood of undernutrition; and lost work capacity in vulnerable populations. Additional potential risks include: breakdown in food systems; violent conflict associated with resource scarcity and population movement; and exacerbation of poverty. Climate change is expected to widen existing health inequalities, both between and within populations, and "the overall health effects of a changing climate are likely to be overwhelmingly negative".[6]

7. The Intergovernmental Panel on Climate Change confirms that the health of human populations is sensitive to shifts in weather patterns and other aspects of climate change. Direct effects on health occur "due to changes in temperature and precipitation and occurrence of heat waves, floods, droughts, and fires", while indirectly, "health may be damaged by ecological disruptions brought on by climate change (crop failures, shifting patterns of disease vectors), or social responses to climate change (such as displacement of populations following prolonged drought)".[7]

8. At its most extreme, climate change kills. A study commissioned by the Climate Vulnerable Forum linked 400,000 deaths worldwide to climate change each year.[8] WHO has estimated that between 2030 and 2050, climate change is expected to cause approximately 250,000 additional deaths per year from malnutrition, malaria, diarrhoea and heat stress alone.[9] Taken by themselves, premature deaths from climate change would be ample cause for urgent action. Climate change, however, also endangers the underlying determinants of health at every level, acting as a threat multiplier. According to the *Lancet* Commission on Health and Climate Change, climate change threatens to undermine the last

[5] Intergovernmental Panel on Climate Change, *Climate Change 2014—Impacts, Adaptation, and Vulnerability: Summary for Policymakers*, p. 6.

[6] WHO input (see footnote 1 above); WHO, "Climate change and health", Fact sheet No. 266, available from www.who.int/mediacentre/factsheets/fs266/en/.

[7] K.R. Smith and others, "Human health: impacts, adaptation, and co-benefits", *Climate Change 2014: Impacts, Adaptation, and Vulnerability*, Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, p. 713.

[8] See DARA, *Climate Vulnerability Monitor: A Guide to the Cold Calculus of a Hot Planet*, 2nd ed. (2012).

[9] See WHO, *Quantitative Risk Assessment of the Effects of Climate Change on Selected Causes of Death, 2030s and 2050s* (2014).

half century of gains in development and global health.[10] One recent study found that "unmitigated warming is expected to reshape the global economy by reducing average global incomes roughly 23 per cent by 2100 and widening global income inequality, relative to scenarios without climate change".[11]

9. In the Human Rights Council panel discussion and in their written submissions, stakeholders overwhelmingly agreed that climate change posed a grave threat to human health, including the social and environmental determinants of health such as clean air, safe drinking water, sufficient food and secure shelter (see A/HRC/32/24). This is confirmed by expert analysis. For example, the World Bank has estimated that climate change may result in 1 billion to 2 billion people lacking an adequate supply of water.[12]

10. Negative impacts caused by climate change are global, contemporaneous and expected to increase exponentially according to the degree of climate change that ultimately takes place. Climate change, therefore, requires a global, rights-based response. The Human Rights Council, its special procedures mechanisms and OHCHR have consistently brought attention to the links between human rights and climate change through a series of resolutions, reports and activities on the subject, and by advocating a human rights-based approach.[13] A rights-based approach to climate change, as called for in various Council resolutions,[14] has the potential to inform and strengthen international, regional and national policy, promoting policy coherence, human well-being and sustainable development.

11. The importance of a rights-based approach and the right to health is explicitly recognized in the Paris Agreement, which calls on States to respect, promote and consider human rights, including the right to health, in their respective climate actions. Improved understanding of the key impacts of climate change on the health of all persons, particularly those in vulnerable situations, should inform a rights-based approach. Some of these impacts are detailed below.

A. Key impacts of climate change on health

1. Heat-related health impacts

12. According to WHO, projected increases in average seasonal temperatures and the frequency and intensity of heatwaves will contribute to increases in heat-related deaths among people aged over 65 years. Compared to a future without climate change, this is projected to result in nearly 38,000 additional deaths per year as of 2030 and nearly 100,000 additional deaths per year as of 2050. The largest impacts will be felt in South-East Asia.[15]

13. Heatwaves also contribute to respiratory and cardiovascular disease, and pose a health risk for people working outdoors or under ineffectively climate-controlled conditions. Occupational health risks include clinical heatstroke and death. Increasing temperatures also have implications for labour productivity and poverty reduction,

[10] See *Lancet* Commission on Health and Climate Change, "Health and climate change: policy responses to protect public health" (2015).

[11] M. Burke, S.M. Hsiang and E. Miguel, "Global non-linear effect of temperature on economic production", *Nature*, vol. 527, pp. 235-239 (12 November 2015).

[12] *World Development Report 2010: Development and Climate Change*, p. 5.

[13] See www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/HRClimateChangeIndex.aspx.

[14] See resolutions 7/23, 10/4, 18/22, 26/27 and 29/15.

[15] WHO, *Quantitative Risk Assessment*.

increasing the vulnerability of poor populations particularly in developing countries, many of which also have a weak health infrastructure.[16]

2. Impacts of air pollution

14. Air pollution is not caused by climate change, but climate change can exacerbate some forms of air pollution, and the sources of greenhouse gas emissions and air pollutants are often the same. Promoting access to clean energy would simultaneously reduce levels of greenhouse gas emissions and other harmful pollutants. Given that household air pollution and ambient air pollution are estimated to cause nearly 4.3 million deaths and 3.7 million deaths per year, respectively,[17] this would have substantial health benefits. Air pollutants have also been linked to health impacts, such as cardiovascular and respiratory disease and autism,[18] which can affect quality of life and labour productivity.

3. Extreme weather events and natural disasters

15. Direct impacts on health are caused by crises such as hurricanes, heatwaves, flooding, landslides, drought and wildfires, among others. Climate change contributes to the increasing frequency and intensity of these events and their associated health impacts, which include injury, disability, death and infectious disease transmission. For example, climate change is expected to enhance coastal flooding hazards through both a rise in sea levels and the increasing intensity and frequency of extreme weather events. In addition to mortality, flooding can cause injuries, infections, mental health problems, loss of income and crops, and damage to water and sanitation facilities and other infrastructure with resultant health impacts such as increased transmission of vector-borne diseases.[19]

16. Between 2005 and 2015, more than 1.5 billion people were affected by disasters, with women, children and people in vulnerable situations being disproportionately affected.[20] The Internal Displacement Monitoring Centre has estimated that over the past seven years 22.5 million people have been displaced each year by climate or weather-related disasters.[21]

17. The impacts of these crises are disproportionately felt by persons in vulnerable situations. For example, when there are gendered inequalities in access to economic, social and cultural rights, women suffer from higher rates of mortality as a consequence of natural disasters.[22] Further, a direct correlation has been observed between women's status in society and their likelihood of receiving adequate health care in times of disaster and environmental stress.[23]

4. Expanding disease vectors

18. Climate change helps expand disease vectors in a number of ways. Natural disasters destroy water and sanitation infrastructure, leading to outbreaks of water and insect-borne

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[16] United Nations Development Programme input.

[17] See WHO, "Climate change and health".

[18] See M.F. Cortez, "Air pollution exposure in pregnancy linked to autism in study" (Bloomberg, 18 December 2014).

[19] WHO, *Quantitative Risk Assessment*.

[20] United Nations Development Programme input.

[21] *Global Estimates 2015: People Displaced by Disasters*, p. 8 (July 2015).

[22] E. Neumayer and T. Plümper, "The gendered nature of natural disasters: the impact of catastrophic events on the gender gap in life expectancy, 1981-2002", *Annals of the Association of American Geographers*, vol. 97 (3), pp. 551-566 (2007).

[23] See WHO, "Gender inequities in environmental health", document EUR/5067874/151 (2008).

diseases. Cholera, for example, thrives in a warming climate and insects and other carriers of disease are very sensitive to heat, humidity and rainfall. Climate change has greatly expanded the range of dengue fever and could do the same for malaria. More than half of the world's population currently lives in an area where *Aedes aegypti* mosquitoes, the principal vector for zika, dengue and chikungunya, are present. Warming temperatures threaten to expand this geographical range even further. In addition to the aforementioned diseases, panellists and survey respondents linked climate change to outbreaks of leptospirosis, diarrhoea, viral infections, meningitis, varicella, viral hepatitis, leishmaniasis and pertussis.[24]

19. Changes in the climate have multiple impacts on transmission of diseases, including lengthening their transmission season and expanding their geographic range. WHO has projected that these impacts will result in 48,000 additional deaths from diarrhoeal disease for children aged under 15 years and 60,000 additional deaths from malaria by the year 2030. These increases in mortality would have a disproportionate impact on persons living in Africa and South-East Asia.[25]

5. Nutrition

20. Climate change affects nutrition through changes in crop yields, loss of livelihood, increases in poverty, and reduced access to food, water and sanitation, among others. Elevated carbon dioxide levels cause climate change and directly decrease the protein, mineral and vitamin content of many staple food crops.[26] The World Bank recently estimated that a 2°C increase in average global temperature would put between 100 million and 400 million more people at risk of hunger and could result in over 3 million additional deaths from malnutrition each year.[27] By 2050, climate change is expected to result in an additional 24 million undernourished children.[28] WHO estimates that climate change will lead to nearly 95,000 additional deaths per year due to undernutrition in children aged 5 years or less by 2030.[29] Beyond starvation, undernutrition contributes to higher incidences of morbidity and mortality from diseases such as diarrhoea, pneumonia, malaria and measles. These impacts will be felt disproportionately in South Asia and sub-Saharan Africa. Climate change is projected to increase severe child stunting by 23 per cent in central sub-Saharan Africa and by 62 per cent in South Asia by 2050.[30]

6. Impacts on mental health

21. The consequences of climate change can have a profound impact on mental health through both its direct impact and its impact on social support systems and cultural traditions. People who experience the loss of homes or loved ones, or are exposed to life-threatening situations, face higher risks of developing stress and anxiety-related conditions,

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[24] Various inputs, including WHO; and G. Mercer, "The link between Zika and climate change", *The Atlantic* (24 February 2016).

[25] WHO, *Quantitative Risk Assessment*.

[26] L. Ziska and others, *The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment*, U.S. Global Change Research Program (Washington, D.C., 2016), pp. 189-216.

[27] World Bank, *World Development Report 2010*, pp. 4-5.

[28] See G.C. Nelson and others, *Climate change: Impact on Agriculture and Costs of Adaptation*, International Food Policy Research Institute (Washington, D.C., 2009).

[29] WHO, *Quantitative Risk Assessment*.

[30] S.J. Lloyd, R. Sari Kovats and Zaid Chalabi, "Climate change, crop yields, and undernutrition: development of a model to quantify the impact of climate scenarios on child undernutrition", *Environmental Health Perspectives*, vol. 119, pp. 1817-1823 (2011).

including post-traumatic stress disorder and depression.[31] Climate impacts on mental health stem from the immediate physical effects of climate change and the more gradual effects on the environment, human systems and infrastructure.[32] For example, a study on the mental-health effects of climate change found that prolonged drought can lead to increasing farmer suicides, along with impaired mental health and stress.[33]

7. Other health impacts of climate change

22. As a threat multiplier, climate change has more impacts on health than can be addressed in the present report. It has, for example, been linked to displacement, forced migration, insecurity and violent conflict, all of which pose substantial health risks.[34] Declining biodiversity as a result of climate change also has an impact on the development of new medicines and access to medicines. Ecosystem damage has far-ranging implications for health, infrastructure, ecosystem services and traditional livelihoods. Climate change and associated natural disasters further increase burdens on Governments struggling to allocate limited resources to fulfil human rights obligations.

B. Disproportionate impacts on persons and groups in vulnerable situations

23. Negative impacts of climate change are disproportionately felt by the poor, women, children, migrants, persons with disabilities, minorities, indigenous peoples and others in vulnerable situations, particularly those living in geographically vulnerable developing countries. Populations living in small island developing States, on coasts, in high mountains, in deserts, at the poles and in other delicate ecosystems are most vulnerable to climate change.[35] For example, persons living in small island developing States currently suffer from climate-sensitive health problems and vulnerability to extreme weather events, which can have short and long-term health effects, including drowning, injuries, increased disease transmission and deterioration of water quantity and quality.[36] In extreme cases, rising sea levels threaten the very existence of some atoll nations the residents of which face imminent displacement and associated physical and mental health impacts.

24. The *Lancet* Commission on Health and Climate Change affirmed that certain population groups are particularly vulnerable to the health effects of climate change due, inter alia, to existing socioeconomic inequalities, cultural norms and intrinsic psychological factors.[37] The World Bank has emphasized that poor people are disproportionately affected by climate-related shocks and that climate change could result in an additional 100 million

[31] Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health, statement made during the panel discussion on climate change and the right to health on 3 March 2016.

[32] See S. Clayton, C. Manning and C. Hodge, *Beyond Storms & Droughts: The Psychological Impacts of Climate Change* (Washington, D.C., American Psychological Association and ecoAmerica, 2014).

[33] S.K. Padhy and others, "Mental health effects of climate change", *Indian Journal of Occupational and Environmental Medicine*, vol. 19 (1), pp. 3-7 (2014).

[34] See statement by the Special Rapporteur on the right to health during the panel discussion; and S.M. Hsiang, M. Burke and E. Miguel, "Quantifying the influence of climate on human conflict", *Science*, vol. 341, issue 6151 (13 September 2013).

[35] See WHO, "Climate change and health".

[36] Smith and others, "Human health".

[37] *Lancet* Commission, "Health and climate change".

people living in extreme poverty by 2030.[38] Climate change increases the incidence and range of diseases like malaria and diarrhoea that disproportionately affect the poor. The Intergovernmental Panel on Climate Change has also highlighted the fact that health losses due to climate change-induced undernutrition occur mainly in areas that are already food insecure.[39] These types of impact increase health expenditures and ill-health among those who can least afford it, contributing further to the vicious cycle of poverty.

1. Health impacts and gender

25. Gender differences in health risks are likely to be exacerbated by climate change.[40] At the global level, natural disasters kill more women than men, with younger women being more vulnerable. Evidence suggests that differences are also present in vulnerability to indirect and long-term effects of climate change. For example, during droughts, the health of women and girls suffers disproportionately due to reduced water availability for drinking, cooking and hygiene, and food insecurity. The poorest households in the world typically rely on the most polluting energy sources for household activities such as cooking, which are often performed by women and girls. Use of such energy sources is associated with more than 4.3 million deaths each year.[41]

2. Health impacts on children

26. Many of the countries that are highly vulnerable to climate change also have higher proportions of children in their overall population. According to the United Nations Children Fund (UNICEF), the right to health of children is particularly affected by climate change. Children are especially vulnerable to changes in air and water quality, temperature, humidity, and vector-, water-, and food-borne infections due to their less developed physiology and immune systems. The majority of the existing global disease burden resulting from climate change occurs in children, and their main causes of death (diarrhoea, malaria, malnutrition) are likely to increase owing to the impact of climate change. Children are also more likely than adults to die because of natural hazards or succumb to malnutrition, injuries or disease in their aftermath.[42] The risk of extreme weather events and other climatic impacts can affect children's futures in a number of other significant ways. There has, for example, been a link to an increase in child marriage as a component of family survival strategies.[43]

27. Climate change has a disproportionate effect on marginalized and excluded individuals and groups, including those whose ways of life are inextricably linked to the environment, such as indigenous children. It exacerbates existing health inequities and threatens the very notion of intergenerational equity because its impacts will be felt most severely by children and future generations who have contributed little or nothing to its making.

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[38] See S. Hallegatte and others, *Shock Waves: Managing the Impacts of Climate Change on Poverty*, Climate Change and Development Series (Washington, D.C., World Bank, 2016).

[39] Smith and others, "Human health".

[40] See WHO, *Gender, Climate Change and Health* (2014); and *Mainstreaming Gender in Health Adaptation to Climate Change Programmes: User's Guide* (2012).

[41] See WHO, "Climate change and health".

[42] UNICEF input.

[43] Human Rights Watch input.

3. Health impacts on migrants

28. Environmental factors and climate change are critical drivers of migration. Although migration can be a strategy for adapting to climate change, it also contributes to increased health risks. According to the International Organization for Migration, health risks associated with migration or displacement are caused by reduced access to health-care facilities, goods and services; loss of social networks and assets; and other negative impacts on availability of and access to the underlying determinants of health. In the case of displacement owing to sudden onset disasters, infectious disease can be a major cause of mortality. Population movement due to natural disasters often occurs within vulnerable areas, posing major challenges to public health systems and access to health goods and services. Migrants may also suffer mental health impacts resulting from their displacement and the discrimination to which they may be subject.[44]

4. Health impacts on indigenous peoples

29. Climate change has an impact on the livelihoods and traditions of indigenous peoples, and can have particularly severe repercussions on their mental and physical health. For many indigenous peoples, their health is directly related to their immediate environment, which often serves as their primary source of water, food and medicine.[45] A recent study carried out in Latin America and the Caribbean found that indigenous communities face multiple difficulties in adapting to environmental changes which contribute to food insecurity and poor health. For instance, climatic changes in the Andean and sub-Andean region have resulted in variations in seasonality that affect the food security, social stability, health and psychological well-being of Aymara and Quechua peoples.[46]

30. Similarly, nomadic herders are greatly affected by changes in rainfall that threaten their herds, reduce milk production and cause the premature death of young cattle. Droughts also increase respiratory diseases, diseases related to malnutrition and waterborne diseases such as cholera, particularly affecting women and young children.[47] The Intergovernmental Panel on Climate Change has observed that health inequities rooted in race and ethnicity can increase vulnerability to climate change.[48] This is especially the case for many indigenous peoples who are at a greater risk of economic hardship, discrimination and poor health and often rely on vulnerable ecosystems for subsistence.

III. General human rights obligations and principles that apply in the context of climate change

31. Human rights are universal legal guarantees that protect individuals, groups and peoples against actions and omissions that interfere with their fundamental freedoms and entitlements. Human rights law obliges Governments (principally) and other duty bearers to respect, promote, protect and fulfil all human rights. Human rights are legally protected, and impose obligations in relation to actions and omissions, particularly of States but also of other duty bearers. Human rights obligations, standards and principles have the power to

[44] International Organization for Migration input.
[45] Statement by Hindou Ibrahim during the panel discussion on climate change and the right to health.
[46] See J. Kronik and D. Verner, *Indigenous Peoples and Climate Change in Latin America and the Caribbean* (Washington, D.C., World Bank, 2010).
[47] Statement by Hindou Ibrahim.
[48] Smith and others, "Human health".

shape policies for climate change mitigation and adaptation and hold countries accountable for implementation of climate commitments.

32. As the preceding analysis indicates, climate change caused by human activity has negative impacts on the full enjoyment of human rights, particularly the right to health. These impacts trigger obligations and responsibilities among all duty bearers.[49] States, for example, must limit anthropogenic emissions of greenhouse gases (for example, mitigate climate change), including through regulatory measures, in order to prevent to the greatest extent possible current and future negative human rights impacts of climate change. When climate mitigation efforts fail to adequately protect rights, States must ensure that appropriate adaptation measures are taken to protect and fulfil the rights of all persons, particularly those most endangered by the negative impacts of climate change.

33. The human rights framework requires that global efforts to mitigate and adapt to climate change be guided by relevant human rights norms and principles, including the rights to participation and information, transparency, accountability, equity and non-discrimination.

34. The Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the Declaration on the Right to Development all make clear that human rights obligations of States require both individual action and international cooperation. Under these core human rights instruments, States acting individually and collectively are obligated to mobilize and allocate the maximum available resources for the progressive realization of economic, social and cultural rights, as well as for the advancement of civil and political rights and the right to development. Failure to adopt reasonable measures to mobilize resources to prevent foreseeable human rights harm caused by climate change breaches this obligation.

35. In the Declaration on the Right to Development, States are called on to establish, through their individual and collective actions, national and international conditions favourable to the realization of all human rights, including through international cooperation to provide developing countries with appropriate means and facilities to foster their comprehensive development. The International Covenant on Economic, Social and Cultural Rights further states that everyone has the right to enjoy the benefits of science and its applications. All States should, therefore, actively support the development and sharing of new climate mitigation and adaptation technologies.

36. The Declaration on the Right to Development also emphasizes that all human beings have a responsibility for development, and they should therefore promote and protect an appropriate political, social and economic order for development. The Guiding Principles on Business and Human Rights affirm that States have an obligation to protect human rights from harm by businesses, while businesses have a responsibility to respect human rights and to do no harm. Accordingly, all actors should be accountable for negative impacts caused by their activities and share responsibility for remedying them.[50] In particular, businesses must be accountable for their climate impacts and participate responsibly in climate mitigation and adaptation actions that fully respect human rights.

37. The human rights principles of equality and non-discrimination require action to address and remedy the disproportionate impacts of climate change on the most

[49] See OHCHR, Key messages on human rights and climate change (2015), available from www.ohchr.org/Documents/Issues/ClimateChange/KeyMessages_on_HR_CC.pdf.

[50] The legal obligations of States and enterprises to address climate change are subject to growing consensus and analysis. See, for example, the Oslo Principles on Global Climate Change Obligations (1 March 2015).

marginalized; to ensure that climate actions benefit persons, groups and peoples in vulnerable situations; and to reduce inequalities. Efforts to address climate change should not exacerbate inequalities within or between States. For example, indigenous peoples' rights should be fully reflected in line with the United Nations Declaration on the Rights of Indigenous Peoples and actions likely to have an impact on their rights should not be taken without their free, prior and informed consent. Care should also be taken to ensure that a gender perspective, including efforts to ensure gender equality, is included in all planning for climate change mitigation and adaptation. The rights of children, older persons, minorities, migrants and others in vulnerable situations must be effectively protected.

38. The disproportionate impact of climate change on persons in vulnerable situations raises concerns of climate justice, fairness, equity and access to remedy. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other human rights instruments make it clear that all persons who suffer human rights harm are entitled to access to effective remedies. Those affected by climate change, now and in the future, must have access to meaningful remedies, including judicial and other redress mechanisms. The obligations of States in the context of climate change and other environmental harm extend to all rights holders and to harm that occurs both inside and beyond boundaries. States should be accountable to rights holders for their contributions to climate change, including for failure to adequately regulate the emissions of businesses under their jurisdiction.

39. The Rio Declaration on Environment and Development, the Vienna Declaration and Programme of Action, and the outcome document of the United Nations Conference on Sustainable Development all call for the right to development to be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations. The United Nations Framework Convention on Climate Change calls on States to protect future generations and take action on climate change on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. While climate change affects people everywhere, those who have contributed the least to greenhouse gas emissions (that is, the poor, children and future generations) are often those most affected. Equity in climate action requires that efforts to address climate change benefit people in developing countries, indigenous peoples, future generations and others in vulnerable situations.

40. The United Nations Framework Convention on Climate Change is subject to evolution and continuing negotiations regarding its implementation that take place during its annual Conference of the Parties. In these negotiations and related processes, the human rights principles of transparency, participation and accountability have an important role to play.[51] In order to ensure sustainable development and appropriate mechanisms for climate mitigation and adaptation, climate negotiations should be participatory and transparent. A rights-based framework should shape both the substantive commitments of Parties and the processes by which they are agreed and carried out.

41. The International Covenant on Civil and Political Rights and other human rights instruments, such as the Declaration on the Right to Development, guarantee all persons the right to free, active, meaningful and informed participation in public affairs. Particular care should be taken to comply with relevant human rights obligations relating to participation of persons, groups and peoples in vulnerable situations in decision-making processes and to ensure that adaptation and mitigation efforts do not adversely affect those that they should

[51] The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) highlights these principles in the context of environmental issues.

be benefiting. With regard to environmental issues, the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters provides a potential model for promoting good environmental governance and addressing the interlinked rights of access to information, public participation and access to justice.[52]

IV. Climate change and the human right to health

42. The protection of all human rights from the impact of climate change is fundamental for the protection of the right to health. Internationally, however, there is growing recognition of the specific interlinkages between climate change and the human right to health. Elements of this relationship are recognized in the text of the United Nations Framework Convention on Climate Change. Article 1 defines the adverse effects of climate change as changes in the physical environment or biotite resulting from climate change which have significant deleterious effects on human health and welfare. Article 3 calls upon Parties to the Convention to take measures to minimize the causes of climate change and minimize its adverse effects, including on health. Article 4 further calls for Parties to minimize the public health implications of mitigation and adaptation projects and measures they undertake, using relevant tools such as impact assessments. The first direct reference to human rights in the context of the Convention was made in 2010 in decision 1/CP.16, in which the Conference of the Parties refers to Human Rights Council resolution 10/4 in which the Council recognizes the adverse effects of climate change on the effective enjoyment of human rights. In the decision, it is emphasized that Parties to the Convention should fully respect human rights in all climate change-related actions.

43. Subsequent negotiations and discussions led to the inclusion of human rights language in the outcome reached at the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change. The outcome of the twenty-first session makes reference to the outcome of the sixteenth session, which included health as a priority sector for adaptation, and includes explicit references to the right to health in the preambles of both its decision and the Paris Agreement. The outcome emphasizes the importance of health co-benefits under the section relating to enhanced action prior to 2020. The Agreement also calls on States to respect, promote and consider human rights, including the right to health, in their respective climate actions.

44. The right to health is explicitly protected in a number of international human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities. Countries that have ratified international legal instruments relating to climate change and/or the right to health are obliged to implement them and translate their obligations into national law.

45. States, therefore, have clear obligations to take measures to prevent and remedy the negative impacts of climate change on the right to health, including with regard to the environmental and social determinants of health. This was explicitly recognized by the Committee on the Rights of the Child in its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, in which the Committee calls on States to take measures that address the dangers and risks that local

[52] United Nations Economic Commission for Europe input.

environmental pollution poses to children's health in all settings, and to implement environmental interventions that "should, inter alia, address climate change, as this is one of the biggest threats to children's health and exacerbates health disparities". Since climate change disproportionately affects the rights of persons living in vulnerable situations, the principles of equality and non-discrimination are particularly relevant to climate actions, requiring that States ensure that health facilities, goods and services are available, accessible, acceptable and of good quality. For example, in the context of climate displacement, the right to health requires that States enact and implement transparent and socially inclusive public health strategies that give priority to the needs of vulnerable and marginalized groups, including migrants.[53]

V. Applying a rights-based approach to health and climate action

46. The 2030 Agenda for Sustainable Development, the Paris Agreement, the Sendai Framework for Disaster Risk Reduction and the Addis Ababa Action Agenda of the Third International Conference on Financing for Development all reaffirm State commitments to a rights-based approach to development and climate action. These commitments must now be implemented. The Declaration on the Right to Development and the Statement of Common Understanding among United Nations agencies on Human Rights-Based Approaches to Development Cooperation and Programming offer a road map for doing so.[54] A rights-based approach analyses obligations, inequalities and vulnerabilities, and seeks to redress discriminatory practices and unjust distributions of power. It anchors plans, policies and programmes in a system of rights and corresponding obligations established by international law. The essential attributes of a human rights-based approach are the following:

(a) As policies and programmes are formulated, the main objective should be to fulfil human rights;

(b) The rights holders and their entitlements must be identified to strengthen their capacity to make claims and ensure their participation in relevant decision-making processes;

(c) The duty bearers and their obligations must be clarified to ensure their accountability;

(d) Principles and standards derived from international human rights law — especially the Universal Declaration of Human Rights and the core universal human rights treaties, should guide all policies and programming.

47. This approach should be integrated in any climate change adaptation or mitigation measure, such as the promotion of alternative energy sources, forest conservation, tree-planting projects and resettlement schemes. Individuals and communities affected must participate, without discrimination, in the design and implementation of the projects. They must have access to due process and to remedy if their rights are violated. Climate justice requires a rights-based approach to climate action founded on principles of equity, accountability, equality, inclusiveness and solidarity. These principles are essential in guiding support for developing countries, including financial and technological assistance. Faced with climate change, persons in vulnerable situations must have their rights

[53] International Organization for Migration input.

[54] See http://hrbaportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies.

protected, obtain access to measures of adaptation and resilience, and receive the support of the international community.

48. Critically, it is not enough to simply focus on ensuring that action against climate change respects human rights. A rights-based approach requires States to take affirmative action to respect, protect, promote and fulfil all human rights for all persons. Failure to prevent foreseeable human rights harm caused by climate change, or at the very least to mobilize maximum available resources in an effort to do so, constitutes a breach of this obligation. Action should focus on protecting the rights of all those vulnerable to climate change. Human rights principles articulated in the Declaration on the Right to Development and other instruments call for such climate action to be both individual and collective and for it to benefit all persons, particularly the most marginalized.

49. The United Nations Framework Convention on Climate Change further elaborates upon the need for equitable climate action, calling on States to address climate change in accordance with their common but differentiated responsibilities and respective capabilities in order to benefit present and future generations.[55] State commitments require international cooperation, including financial, technological and capacity-building support, to realize low-carbon, climate-resilient and sustainable development, while also rapidly reducing greenhouse gas emissions. By integrating human rights in climate actions and policies, and empowering people to participate in policy formulation, States can promote sustainability and hold duty bearers accountable for their actions. This, in turn, will promote consistency, policy coherence and the enjoyment of all human rights, including the right to health.

50. A human rights framework for realizing the right to health calls for national Governments to ensure that health facilities, goods and services are available in sufficient quantity, and are physically accessible and affordable on the basis of non-discrimination. Health facilities, goods and services are also required to be gender sensitive and culturally appropriate, scientifically and medically appropriate, of good quality, and respectful of medical ethics. All relevant stakeholders should be able to participate, through transparent processes, in the development and implementation of health policies. Health authorities and other duty bearers should be held accountable for meeting human rights obligations in the area of public health, including through the possibility of seeking effective remedies via complaints mechanisms or other avenues for redress. A human rights-based approach also takes account of, and incorporates, the many factors which affect the enjoyment of the right to health — the underlying determinants of health — such as access to safe and potable water and adequate sanitation, an adequate supply of safe food and nutrition, healthy occupational and environmental conditions, and adequate housing.[56]

51. In addition to being a legal and ethical imperative, a rights-based approach to climate action counters the negative impacts of climate change on health and prevents mitigation and adaptation efforts from undermining all human rights. Accountability, transparency and meaningful and informed participation can strengthen mitigation and adaptation efforts, making them more ambitious, effective, inclusive, responsive and collaborative while ensuring that they leave no one behind. While the impact of climate change will be overwhelmingly negative on health, tackling climate change could also be an important global health opportunity.[57] WHO has noted that there is a tremendous

[55] See also the Paris Agreement.

[56] See Committee on Economic, Social and Cultural Rights general comment No. 14 (2000) on the right to the highest attainable standard of health, paras. 4 and 11.

[57] *Lancet* Commission, "Health and climate change".

potential for health co-benefits from policies that address climate change.[58] A rights-based approach has a crucial role to play in identifying and implementing effective climate actions that benefit people and the planet.

52. For instance, a study by the World Resources Institute has found that legal recognition of community forest rights can substantially reduce carbon dioxide emissions from deforestation.[59] Importantly, such actions also protect traditional livelihoods and access to traditional foods and medicines with positive health benefits for local communities. In this way, a rights-based approach has the potential to address cross-cutting issues relating to health, sustainable development, natural resource management and climate change, while empowering the most marginalized. It is imperative for States to employ rights-based approaches across all aspects of climate action at the international, regional, national and local levels, if they are to successfully meet their human rights obligations and effectively address the threat posed by climate change.

VI. Conclusions and recommendations

53. Participants in the Human Rights Council panel discussion on climate change and the right to health and those who responded to the call for inputs to the present study overwhelmingly agreed that climate change has substantial negative impacts on the enjoyment of the highest attainable standard of physical and mental health. In order to fulfil the right to health, Governments, civil society, the private sector, international partners and individuals must collaborate to protect the environment and achieve sustainable development that meets the needs of present and future generations.

54. Since climate change directly contributes to the violation of human rights, States have an affirmative obligation to take measures to mitigate climate change; to prevent negative human rights impacts; to ensure that all persons, particularly those in vulnerable situations, have adequate capacity to adapt to changing climactic conditions; and to regulate the private sector in order to mitigate its contribution to climate change and ensure respect for human rights.

55. The negative health impacts of climate change will increase exponentially with every incremental increase in warming. Limiting warming to the greatest extent possible and achieving the target of 1.5°C above pre-industrial levels should therefore be the objective of all climate action. Beyond setting and achieving an ambitious goal, protecting the right to health from climate change will require climate mitigation and adaptation measures that are rights-based, effective and participatory and benefit the vulnerable.

56. This starts with effective laws and policies at all levels and ends with effective monitoring and implementation. Many States reported that they had constitutional protection of health and the environment and employed concrete measures focusing on mitigation of and adaptation to the negative impacts of climate change on human health. Further analysis of those policies and actions is needed to identify and promote good practices. States should integrate policies on health and human rights in their national action plans for climate mitigation and adaptation, in the intended nationally

[58] See WHO, "Promoting health while mitigating climate change", Technical briefing for the World Health Organization Conference on Health and Climate Change (27-29 August 2014).

[59] See C. Stevens and others, *Securing Rights, Combating Climate Change: How Strengthening Community Forest Rights Mitigates Climate Change* (World Resources Institute, 2014).

determined contributions submitted to the United Nations Convention on Climate Change, and in other climate policies and actions at all levels. They should improve cross-sectoral cooperation and design specialized frameworks for tackling threats to health relating to climate change.

57. To ensure climate-resilient populations, States should also take measures to develop sustainable and resilient health systems and infrastructure, including for water and sanitation, and to fulfil their minimum core obligations with regard to the right to health,[60] including by promoting universal health coverage and social protection floors.

58. Effective rights-based climate action requires open and participatory institutions and processes, as well as accurate and transparent measurements of greenhouse gas emissions, climate change, including its impacts. States should make early-warning information regarding climate effects and natural disasters publicly available and easily accessible. Adaptation and mitigation plans should be public and transparently financed and designed in consultation with the groups affected. Vulnerable groups must participate in efforts to integrate human rights in climate policies and be empowered to address climate change and its impacts, including throughout relevant processes and mechanisms relating to the United Nations Framework Convention on Climate Change. Health and climate education should be promoted to facilitate the meaningful, informed participation of those groups. Impact assessments should ensure that climate actions respect human rights, particularly the right to health.[61] Further, States should develop and monitor relevant human rights indicators in the context of climate change; keep disaggregated data to track the varied impacts of climate change across demographic groups; and enable effective, rights-compliant climate action.

59. Climate mitigation and adaptation efforts should place people at the centre, be gender sensitive, and ensure the rights of persons, groups and peoples in vulnerable situations, including women, children, indigenous peoples, migrants and the poor. States should develop a rights-based approach to environmental migration by integrating climate change and migrants' health into their development, health and disaster risk reduction and management plans and policies. To ensure gender equality and women's empowerment, States should promote the full and equal participation of women in decision-making processes, including those relating to disaster risk reduction and resilience; and improve women's access to education, land, technologies, credit, social protection and resilient health systems. Measures should also be taken to protect indigenous peoples' traditional knowledge, lands and resources and ensure their participation in relevant decision-making processes.

60. Health protection should be a priority for investment in climate adaptation and mitigation. Efforts should be targeted to capitalize on climate and health co-benefits that lead to direct reductions in the burden of ill-health, enhance community resilience, alleviate poverty and address global inequity. These could include, for example, measures that: reduce local emissions of air pollutants from energy systems through improved energy efficiency and cleaner energy sources; promote active transport systems leading to lower emissions and better health; shift consumption away from animal products towards more sustainable and healthier diets, provide access to reproductive health services, including modern family planning; and protect

[60] See Committee on Economic, Social and Cultural Rights general comment No. 14, para. 43.

[61] See article 4 of the United Nations Framework Convention on Climate Change (committing States to consider the public health impacts of their mitigation and adaptation activities).

community landownership.[62] Conversely, it must be ensured that climate action does not adversely affect human rights as, for example, might sometimes be the case in relation to biofuels and food security or displacement and hydroelectric dams.

61. States should enhance cooperation and development assistance on the basis of principles of equity and common but differentiated responsibility to ensure adequate funding of, and research into, adaptation measures that help the poorest countries and those persons, groups and peoples most at risk. Specific measures could include: equitable access to technology, including, if necessary, the lowering of intellectual property standards and facilitation of technology transfer; targeted poverty reduction efforts; and establishment of a special climate justice fund to finance climate mitigation and adaptation policies with funds from both the public and private sectors. Resources should be mobilized to enhance research and development relating to, inter alia, data collection for the implementation of efficient and timely responses to the negative impacts of climate change on determinants of health; diagnosis and treatment of diseases and control of disease vectors; climate-resilient crops; renewable sources of energy and energy conservation; and linkages between ecological health, animal health and human health. Climate finance and adaptation should support effective measures that bring health co-benefits particularly to persons in vulnerable situations and in developing countries. Climate finance should be innovative, long term and additional to existing funding for poverty reduction and sustainable development.

62. It is also critical that mechanisms to address loss and damages be strengthened and that both the public and private sectors be accountable for their actions. National human rights institutions, for example, can combine analysis and action to promote remedies for individual violations of human rights and systematic deficiencies relating to climate change. Courts and other legal institutions must also play a role in protecting the most vulnerable, ensuring accountability and providing access to remedy.

63. Emergency responses need to be comprehensive and cover a broad range of areas such as mental health, sexual and reproductive health, disability, loss and damages. Immediate social protection measures, such as price subsidies, food programmes, employment programmes, retraining programmes, loans for vulnerable populations and special packages for children's nutrition and for sexual and reproductive health, should be included in emergency assistance. States should establish, inter alia, early warning systems; utilize community-based monitoring, including traditional knowledge; enhance emergency response capabilities; and improve coordination in addressing climate migration and protecting migrants' right to health in disaster risk reduction and adaptation.

64. Human rights policies, climate change policies and development policies, as well as relevant experts, all need to support rights-based climate action. Instruments like the Geneva Pledge for Human Rights in Climate Action can provide a vehicle for furthering this objective. States that have not done so should consider signing the Pledge. The human rights machinery should be mobilized to monitor climate commitments, including through consideration of the human rights impacts of climate change during the universal periodic review and by treaty bodies and Human Rights Council special procedure mandate holders. OHCHR, the secretariat of the United Nations Framework Convention on Climate Change and WHO should work together, along with other relevant partners and States, to develop tools and promote climate

[62] See, for example, Smith and others, "Human health".

policies that benefit people and the planet and further the implementation of relevant commitments such as those in the Addis Ababa Action Agenda, the 2030 Agenda for Sustainable Development, the Sendai Framework for Disaster Risk Reduction and the Paris Agreement.

United Nations A/HRC/32/24

General Assembly

Distr.: General
19 April 2016

Original: English

Human Rights Council
Thirty-second session
Agenda items 2 and 3
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Outcome of the panel discussion on the adverse impact of climate change on States' efforts to progressively realize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and related policies, lessons learned and good practices

Summary report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 29/15. It provides a summary of the panel discussion on human rights and climate change, held on 3 March 2016, during the thirty-first session of the Council.

GE.16-06362(E)

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I. Introduction

1. Pursuant to its resolution 29/15, the Human Rights Council held a panel discussion on 3 March 2016 on the adverse impact of climate change on States' efforts to progressively realize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and related policies, lessons learned and good practices.

2. The panel discussion was chaired by the President of the Human Rights Council. It opened with a statement by the Deputy High Commissioner for Human Rights, Kate Gilmore, which was followed by a keynote address from the Director-General of the World Health Organization (WHO), Margaret Chan.[1]

3. The meeting provided an opportunity for States, international organizations and other relevant stakeholders to discuss the impact of climate change on the enjoyment of the right to health with a focus on facilitating effective action to tackle climate change-related health impacts through the exchange of knowledge and good practices between expert panellists, States, international organizations and other relevant stakeholders.

4. The panel was moderated by the Permanent Representative of Viet Nam to the United Nations Office and other international organizations in Geneva, Trung Thanh Nguyen. The panellists included the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Dainius Pūras; the Under-Secretary of the Department of Health of the Philippines, Lilibeth C. David; Chair of the International Union for Nutritional Sciences task force for climate and nutrition, Cristina Tirado; and the Coordinator of the Association for Indigenous Women and Peoples of Chad, Hindou Oumarou Ibrahim.

II. Opening session

5. The Deputy High Commissioner observed that the Paris Agreement, adopted at the twenty-first Conference of the Parties to the United Nations Framework Convention on Climate Change, stood out as a landmark achievement and an essential milestone in the long struggle to rally humanity to defeat the scourge of climate change. The Agreement provided a specific focus on respecting and promoting human rights, including the right to health, in all climate actions. The year 2015 was the hottest year on record but it was also the year when the international community finally acknowledged its common responsibility to mitigate and adapt to the devastating impacts of climate change. Its effects threatened lives, devastated communities, wrecked local economies and eradicated traditions and cultures.

6. The Deputy High Commissioner stated that climate change endangered the underlying determinants of health at every level and disproportionately affected those who have the least, namely, women, children, older persons, indigenous peoples, minorities, migrants, rural workers, persons with disabilities and the poor, thus exacerbating existing threats to their lives and livelihoods.

7. She noted, for example, that women suffered higher rates of mortality as a consequence of natural disasters and that there was a direct correlation observed between women's status in society and their likelihood of receiving adequate health care in times of

[1] Full statements of the Deputy High Commissioner, the Director-General and all panellists, and the concept note for the panel and additional relevant information, are available from www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/StudyImpact.aspx.

disaster and environmental stress. Studies also linked the increased outbreak of diseases with climate change.

8. The Deputy High Commissioner argued that a world of unchecked climate change was a world where glaciers and tundra melted away, where millions went hungry and thousands died prematurely and where entire populations disappeared. To avert such a future, the international community, including the private sector, had to recognize that climate change was the result of human actions, assume responsibility and take appropriate measures to protect the most vulnerable. She called for ambitious, concerted action — in line with States' human rights obligations to act individually and collectively to take the necessary steps in law, policy, institutions and public budgets — to protect human rights from climate-related harm and offer redress where they occur; protect and empower the vulnerable; allow the free, active and meaningful participation of civil society and affected communities; ensure non-discrimination and equity in climate policies; and ensure accountability for any breach of human right obligations. In closing, she emphasized the need for concrete, evidence-based action to protect the human right to health against the onslaught of climate change and promote truly inclusive and sustainable development for ourselves and our children.

9. The Director-General said that, for public health, climate was the defining issue of the twenty-first century. The impact of climate change was universal and unpredictable but human beings were unquestionably threatened by climate change, which affects the air people breathe, the water they drink, the food they eat and the chances that they will get infected by a disease. More than seven million deaths worldwide were caused by air pollution each year. Climate change also caused tens of thousands of deaths yearly from other causes, such as droughts, floods, wildfires and heat waves. According to the World Meteorological Organization, 2015 was the hottest year since records began in 1880. Furthermore, 2016 was predicted to be even hotter, threatening already perilous food supplies with droughts, especially in poorer countries, where subsistence farming relied on rain. The scale of this threat was immense as, in some countries, more than 70 per cent of the population depended on subsistence farming.

10. With regard to disease, she explained that outbreaks of cholera thrived under the conditions of a changing climate. Insects and other carriers of disease were very sensitive to heat, humidity and rainfall. Climate change had given dengue a vastly expanded geographical range and could do the same for malaria. By 2050, experts predicted that climate change would cause an additional 250,000 deaths each year, just from malaria, diarrhoea, heat stress and undernutrition. More than half of the world population lived in an area where aedes aegypti mosquitoes, the principal vector for zika, dengue and chikungunya, were present. The warming temperatures threatened to expand this geographical range even further, as mosquitoes loved warm weather.

11. For these reasons, the Director-General stated that the first global climate change agreement reached in Paris had been a treaty for public health as well as an environmental agreement. Human rights obligations, standards and principles had the power to shape policies for climate change mitigation and adaptation and provided an entry point for holding countries accountable for their climate commitments. They also served as an ethical reference point. The central focus of the panel on human rights and climate change, and specifically the right to health, is people, their health, their lives and their livelihoods, not money.

12. Holding countries accountable for their climate policies was also a matter of justice as the countries that have historically contributed the least to emissions were being hit the hardest. One of the biggest barriers that stood in the way of realizing the right to health was poverty and poverty was sexist, burdening women the most. The poorest households in the world were forced to rely on the most polluting energy sources for household activities

such as daily cooking. Use of these energy sources, which caused heavy indoor air pollution, was associated with more than 3.5 million deaths each year.

13. The Director-General argued that the Paris agreement, with its central focus on human rights, was a step forward; however, it remained largely voluntary and subject to interpretation. What was needed now was an agenda for action that doubled as a results-based framework for accountability. In this regard, WHO and the United Nations Framework Convention on Climate Change would jointly produce climate and health profiles with a focus on the health risks and opportunities for the most vulnerable populations in individual countries, and tracking data on the health impacts of intended nationally determined contributions. She concluded that urgent action was needed because a ruined planet cannot sustain human lives in good health.

III. Summary of the panel discussion

14. Opening the panel as moderator, the Permanent Representative of Viet Nam said that climate change affected the social and environmental determinants of health. The Paris Agreement was not only a climate treaty but a public health treaty in which the right to health was essential. The panel discussion was to address and establish a deeper understanding of the impact of climate change on the right to health in order to facilitate appropriate climate action. States and other discussants needed to identify priorities to further integrate human rights, especially the right to health, in efforts to implement the Paris Agreement and the 2030 Agenda for Sustainable Development. Viet Nam was one of the five most vulnerable countries to climate change. By the end of the twenty-first century, it was predicted that its temperature would increase by up to three degrees and that sea levels would rise by one metre, threatening coastal and riverine areas, particularly the Mekong delta, and directly impacting 10 to 12 per cent of the population of the country. This also posed a serious threat to the enjoyment of the right to health beyond the borders of Viet Nam, which was the second largest rice exporter in the world.

A. Contributions of panellists

15. The Special Rapporteur stated that, with the adoption of the Paris Agreement, the States parties to the United Nations Framework Convention on Climate Change had responded to the calls for a robust reference to human rights in climate policy. The right to health was an inclusive right, extending not only to timely and appropriate health care, but also to the underlying determinants of health, such as access to quality food, potable water, adequate sanitation, healthy occupational and environmental conditions and access to health-related education and information. States had an obligation to provide adequate health services necessary for the realization of the highest attainable standards of health, including non-discriminatory access to a system of protection, prevention, treatment and control of diseases. Enjoyment of the right to health required equitable distribution of health facilities, goods and services and the meaningful participation of affected populations in health-related decisions that affect them.

16. The Special Rapporteur emphasized that the effects of climate change on the full enjoyment of the right to health were alarming, having increased the causes of morbidity and mortality and negatively affected human dignity and security. The human and environmental impacts of climate change included loss of land and housing, diminished quantity and quality of food production, food insecurity and malnutrition and forced displacement. In this context, violence was a major public health concern, including collective violence, which was often linked to displacement and forced migration. Climate change also perpetuated existing inequalities, with those in vulnerable situations, the poor

and the marginalized being the most affected not only by climate-related conflict, ill-health and disease, but also by fragile and inadequate public health and health care systems, which were unable to cope with the threat-multiplying effects of climate change.

17. He emphasized that climate change affected not only human physical health but also the mental health and well-being of affected individuals and communities. People who experienced the loss of homes or loved ones or were exposed to life-threatening situations faced higher risks of developing stress and anxiety-related conditions, including post-traumatic stress disorder or depression. States had a legal and moral obligation to mitigate risks associated with climate change and its adverse effects on human rights. Global processes, such as the 2030 Agenda for Sustainable Development or the Paris Agreement, offered a road map, and the special procedures mechanisms of the Human Rights Council were ready to take active part in the monitoring of their implementation to help ensure that human rights are at the core of the work over the coming decade to foster peaceful, sustainable and inclusive societies. The Special Rapporteur said that bold commitment, visionary leadership and immediate action were needed to address the long-term threat of climate change with effective and human-rights based action to protect human health and dignity.

18. The Under-Secretary of the Department of Health of the Philippines described the Paris Agreement as a historic breakthrough in negotiations to arrive at a collective commitment to address the planet's health. Climate change had significantly affected the health of Filipinos in tangible ways through devastating extreme weather events and in the shifting patterns of climate-sensitive diseases. After the massive flooding brought about in 2009 by tropical storm Ketsana and Typhoon Parma, the number of leptospirosis cases had risen dramatically, and dengue incidents had been continually increasing over time.

19. The Philippines experience during Typhoon Haiyan highlighted the capacity of climate change to wipe out health sector gains and inflict catastrophic losses of life, limb and property. In the aftermath, inter-island and regional contingent networks filled the immediate need for rescue and medical attendance of patients. Adequate preparations were critical for response and, moving forward, with the help of the international community, it was important to rebuild better for a more resilient health system. Emergency response needed to be comprehensive covering a broad range of areas, including mental health, sexual and reproductive health and disability, in consonance with the Philippines national policy on climate change adaptation for the health sector. Specific social protection measures included emergency assistance, price subsidies, food programmes, employment programmes, retraining programmes and emergency loans for vulnerable populations. The Department of Health 2014-2018 strategic plan placed a priority on protecting the health of Filipinos living in areas vulnerable to the impacts of climate change and ensuring the right to health of all people.

20. It was important to build back better, stronger health infrastructure that would make health facilities safe havens that could meet needs for energy, water, logistical, communication and shelter in times of crisis. The Under-Secretary called for continued support, cooperation and solidarity in the financial, technological and humanitarian aspects of climate response. She urged the international community to help mobilize the $100 billion needed prior to 2020 to fast-track climate protection and ensure the provision of universal health coverage for all, including marginalized, indigenous and poverty-risk groups. In order to protect the right to health, Governments, civil society, the private sector, international partners and individuals were required to participate in protecting the environment and contributing to sustainable development to meet the needs of present and future generations.

21. The Chair of the International Union for Nutritional Sciences task force for climate and nutrition highlighted that climate change undermines the enjoyment of human rights,

especially the rights to life, to health, to food and to environmental protection, now and in the future. One of its most substantial projected impacts was on caloric availability. By 2050, climate change was expected to result in an additional 24 million undernourished children. Elevated carbon dioxide levels were not only causing climate change, but also directly decreasing the protein, mineral and vitamin content for many staple food crops. The right to food in developing countries was particularly compromised and the resulting impacts were disproportionately borne by poor women, children and other vulnerable people, who had contributed the least to the problem.

22. By 2050, climate change was predicted to increase severe child stunting by 23 per cent in central sub-Saharan Africa and by 62 per cent in South Asia. Simultaneously, increased global demand for animal foods and appetite for meat as a sign of wealth in the developing world presented huge implications for climate change and human health. A meat-based diet had a very high impact on emissions and was associated with increased risks for non-communicable diseases when compared to more sustainable diets.

23. Adequately addressing the complex challenges posed by climate change required a theory of change that placed people's right to life and to health at the centre of sustainable development efforts. The Paris Agreement recognized human rights and the additional benefits to health of mitigation actions. The Intergovernmental Panel on Climate Change had identified actions that reduced emissions and at the same time improved health. These included: reducing local emissions of air pollutants from energy systems through improved energy efficiency and cleaner energy sources; designing transport systems that promote active transport leading to lower emissions and better health; shifting consumption away from animal products towards more sustainable and healthier diets; and providing access to reproductive health services, including modern family planning, to improve child and maternal health.

24. Human rights needed to be considered in national climate adaptation plans, disaster risk reduction and the work of the United Nations Framework Convention on Climate Change. Climate finance should support effective measures that bring additional health benefits and respect gender equality and equity principles. It should be innovative, long term and additional to existing funding for poverty reduction and sustainable development. To ensure gender equity, it was crucial to improve women's access to education, land, technologies, credit, social protection and resilient health systems. Loss and damage also need to be addressed as a human rights and climate justice issue. In concluding, she called for States as a matter of urgency to cut their emissions in order to limit warming below 1.5 degrees Celsius and commit to helping the most vulnerable to adapt to an increasingly unpredictable world.

25. The Coordinator of the Association for Indigenous Women and Peoples of Chad stated that climate change had direct consequences on indigenous peoples' health and traditional lifestyles. Whether in the forest, in the Sahel or in the Taiga, the health of indigenous peoples was directly related to the health of the environment, which provided the water they drink, the food they eat and the medicines they use. Her community, the Mbororo, were nomadic herders who were greatly affected by climate. In 2015, the rainy season had been unpredictable and short, thereby threatening herds, reducing milk production and causing the premature death of young cattle. Droughts increased respiratory diseases, diseases related to malnutrition and waterborne diseases, such as cholera. Women and young children were particularly affected. Medicinal plants were becoming rare, threatening the passage of traditional knowledge and community health.

26. She emphasized that these problems were not unique to her community but common to indigenous peoples around the world. This was why they had fought to ensure that the Paris Agreement incorporated human rights, including the rights of indigenous peoples and of women. The Paris Agreement represented a step forward in recognizing indigenous

peoples' rights and the right to health in the context of climate change. However, it was regrettable that this recognition was largely restricted to the preamble. Indigenous peoples would continue to advocate for rights-based solutions to climate change and adequate financing for their adaptation.

27. Looking beyond Paris, she called for respect for indigenous peoples' knowledge as a resource for climate adaptation, including treatment of disease and weather forecasting. This knowledge needed to be assessed, valued and used. It could be shared but it also needed to be protected so that its use benefitted indigenous peoples. Traditional knowledge belonged to the indigenous communities that had held it for generations and was not meant to be appropriated by multinational corporations. In this regard, it was important that the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity was respected. In concluding, she emphasized that people had destroyed the environment to the detriment of health and that, to restore health, people must therefore take responsibility in the fight against climate change.

B. Interactive discussion

28. During the plenary discussion, the following States took the floor: Albania, Bangladesh, Brazil, Chile, China, Dominican Republic (on behalf of the Community of Latin American and Caribbean States), Egypt, El Salvador, France, Georgia, Iceland (on behalf of Denmark, Finland, Norway and Sweden), Ireland, Italy, Malawi, Maldives, Pakistan (on behalf of the Organization of Islamic Cooperation), Panama, Paraguay, Peru, the Philippines (on behalf of the member States of the Climate Vulnerable Forum), Portugal, the Russian Federation, Saint Vincent and the Grenadines, Samoa, Slovenia (on behalf of Costa Rica, Maldives, Morocco and Switzerland), South Africa (on behalf of the African Group), South Africa, Spain, Tunisia, the United Arab Emirates and the United States of America. A representative of the European Union also participated in the discussion.

29. Representatives of the following non-governmental organizations also spoke: the American Association of Jurists, the Arab Commission for Human Rights (on behalf of the Centre independant de recherche et d'initiatives pour le dialogue), Franciscans International (on behalf of International Coalition for Papua, Westpapua-Netzwerk, TAPOL, VIVAT International and Geneva for Human Rights - Global Training), the Indian Council of South America, the Khiam Rehabilitation Centre for Victims of Torture and the Women's International League for Peace and Freedom.

30. A number of additional participants requested the floor during the panel discussion but could not deliver their statements owing to lack of time. They included representatives of the following States: Afghanistan, Algeria, Benin, Bhutan, Bolivia (Plurinational State of), Colombia, Cuba, Djibouti, Ecuador, Ethiopia, Fiji, Haiti, Honduras, India, Indonesia, Kyrgyzstan, Mexico, Monaco, Morocco, Namibia, Senegal, the Sudan, Venezuala (Bolivarian Republic of) and Viet Nam; the non-governmental organization International-Lawyers.org; and the United Nations Development Programme, the United Nations Environment Programme and the United Nations Children's Fund (UNICEF).[2]

31. All delegations agreed that climate change had direct and indirect impacts on the enjoyment of the human right to health. They welcomed the Paris Agreement and emphasized the importance of its successful implementation noting that it and the 2030

[2] Statements received by the Secretariat are available on the Human Rights Council extranet.

Agenda for Sustainable Development called for a human-rights based approach to sustainable development. In this regard, various delegations emphasized accountability for commitments, participatory decision-making, the protection of the rights of the most vulnerable, education and access to remedy, among other issues.

32. Delegations supported the continuing discussion on climate change at the Human Rights Council and agreed that protecting the right to health required addressing climate change. They observed that climate change disproportionately affected people and groups in vulnerable situations, including the poor, indigenous peoples, women and children. This, in turn, deepened social inequalities and threatened the underlying determinants of health, including housing, water and food. Several delegations observed that those problems were worse in States that were particularly vulnerable to climate change as a result of their unique geographic and climactic conditions and/or economic circumstances. It was further noted that, under the Convention on the Rights of the Child, States were obligated to address the negative health impacts of climate change on children.

33. Most delegations raised specific health impacts of climate change in their countries. These included: expanding insect-borne and waterborne disease vectors, which contributed to increasing incidences of dengue, pertussis, malaria, chikungunya, zika and diarrhoea, among other diseases; droughts and declining crop yields, which contributed to malnutrition and starvation; heat stress and air pollution, which contributed to respiratory and cardiovascular disease; and natural disasters and extreme weather events, which contributed to displacement, loss of life, reallocation and the destruction of resources and the destruction of housing. Several delegations emphasized that climate change and its impacts also posed a threat to mental health. Delegations agreed that climate change jeopardized lives, compromised water and food supplies, heightened the potential for conflicts and threatened sustainable development objectives, including fulfilment of the right to health.

34. Many delegations called for increased local, national and international cooperation in support of sustainable development. They emphasized that climate change, including its human rights impacts, could only be addressed through cooperation, including technical and financial support and technology transfer. Several delegations highlighted the differences in capacity between developed and developing countries, and called for developed countries to lead the charge against climate change in accordance with the principle of common but differentiated responsibility that is found in both the Paris Agreement and the United Nations Framework Convention on Climate Change. The impacts of climate change were often disproportionately felt by developing countries that had contributed the least to climate change, and these countries should receive climate adaptation assistance that was additional to existing development assistance commitments. In this context, the importance of fulfilling the right to development was specifically emphasized.

35. Various delegations called for specific measures to address the impacts of climate change on human rights, including: the lowering of barriers to the transfer of technologies to address climate change; the adoption of preventive measures, including universal health coverage; gender equality, women's empowerment and the full and equal participation of women in decision-making processes, including those related to disaster risk reduction and resilience; health and environmental impact assessments; enhanced research and improved data collection for the implementation of efficient and timely responses to the negative impacts of climate change on determinants of health; the acceleration of research and development efforts related to diagnosis and treatment of diseases and control of disease vectors; accountability for all actors and sectors of the economy; improved cooperation between the United Nations Framework Convention on Climate Change and the Human Rights Council; targeted assistance and poverty reduction for States vulnerable to climate

change in accordance with the principle of common but differentiated responsibility; and efforts to ensure that climate mitigation and adaptation strategies benefit rather than harm people.

36. Several delegations posed specific questions to the panellists, inter alia, related to strengthening the participation and education of children on climate change issues; good practices in guaranteeing the rights of children; the role of the private sector in addressing climate change; strategies for capital development while protecting natural resources; the need for and potential role of a special procedures mandate on human rights and climate change; effective techniques for combatting the spread of insect-borne diseases and monitoring waterborne diseases; effective implementation of the 2030 Agenda for Sustainable Development; and the disproportionate impact of climate change on women's health.

37. Other delegations highlighted the specific measures taken by their Governments to address climate change and its impacts on the right to health, including: the adoption of relevant plans, policies and laws; the creation of new mechanisms to promote information sharing, raise awareness and identify priorities; the promotion of a cross-sectorial approach to climate and health; the employment of impact assessments; and the use of targets, guidelines and indicators.

C. Responses and concluding remarks

38. During and after the interactive discussion, the moderator gave panellists the opportunity to respond to questions and to make concluding remarks. He observed that discussants had expressed a common concern about the impacts of climate change on persons in vulnerable situations, such as women, children, the elderly and the socially and economically disadvantaged. As developing countries were most severely threatened by climate change, there needed to be a link between the right to development and climate change policies. Noting that Viet Nam was one of the five most vulnerable countries to climate change, he called for the impacts of the phenomenon to be addressed by conducting further studies, streamlining climate change and health policies and working at the local, regional and international levels. Accountability and cooperation were essential. The moderator asked panellists to consider these issues, including specifically the role of citizens and local governments in fighting climate change and managing its effects and accountability for climate change.

39. In her remarks, the Chair of the International Union for Nutritional Sciences task force for climate and nutrition emphasized the importance of women and girls' education, gender equality and equity for addressing climate change. Health education in particular was critical for vulnerable populations. Some school programmes in parts of Latin America and North Africa had been effective in addressing these issues, particularly in promoting girls' education. It was also crucial to improve women's access to land, technologies, credit, social protection and resilient health systems in all parts of the world. Climate finance should support measures that bring additional health benefits and respect gender and human rights. As regards the role of the private sector, public-private partnerships could play a role in ensuring universal health coverage and promoting climate resilience and disaster risk reduction. Finally, she described several techniques for addressing insect-borne diseases, which included environmental health interventions, education, insecticide spray, the elimination of breeding areas, surveillance and the development of modified mosquitoes.

40. The Coordinator of the Association for Indigenous Women and Peoples of Chad emphasized that climate change had the greatest impacts on persons living in vulnerable situations. Those most affected included indigenous peoples. Health was critical for

development and therefore climate action must integrate human rights, particularly the human right to health. She noted that realizing the right to development was a necessary precondition for health and that vulnerable groups must participate in efforts to integrate human rights in climate policies and be empowered to address climate change and its impacts. Furthermore, there was a need for synergy between human rights policies, climate change policies and development. If the three agendas were kept separate, States and persons at risk would suffer increasing negative impacts from climate change. In this regard, she expressed concern that fewer than 20 countries had included human rights and/or gender equality in their intended nationally determined contributions, even though the Paris Agreement had highlighted their importance.

41. She stated that loss and damages was a human rights issue. She called for greater cooperation between the United Nations Framework Convention on Climate Change and the Human Rights Council to ensure the integration of human rights in climate-related action. In fact, greater cooperation was required across the United Nations system to ensure a coherent, rights-based approach to climate change. In response to a question about indigenous peoples and fossil fuel extraction, she said that the international community needed to shift from fossil fuel consumption and move to the use of clean energy. The Paris Agreement called for the rights of indigenous peoples to be protected and this needed to happen at the national level. However, partnerships between States and United Nations agencies were also needed. The universal periodic review process could be a useful tool for promoting accountability with regard to human rights, the environment and climate. It was also important that the private sector respect the right to health.

42. The Under-Secretary of the Department of Health of the Philippines called for greater cross-sector cooperation. The health sector, the housing sector, the employment sector and the water sector, for example, all played an important role in the realization of the right to health and needed to coordinate efforts to address climate change and promote the right to health. Investments in climate adaptation within each sector should benefit vulnerable groups. Increased efforts were needed to improve disease detection, vaccine development and vector control for insect-borne outbreaks. In the context of emergencies caused by natural disasters, it was important to have in place a rights-based action plan. In the Philippines, special packages for children's nutrition and for sexual and reproductive health were made available in the initial stages of disaster response. In addition, it was important to have clinical and psychological care for victims of gender-based violence. She concluded by calling for the establishment of a special fund to finance projects and adaptation policies against climate change with funds from both the public and private sector.

43. The Special Rapporteur affirmed the need to strengthen health policies by mainstreaming a rights-based approach at all levels. He proposed that good practices on how to enable parents and children to have non-violent relations be discussed, as this was a risk-factor exacerbated by climate change. He called for the implementation and improvement of existing health systems and policies and investment in holistic health, particularly for children. Climate change was a threat multiplier and needed to be addressed. In doing so, Governments could learn from past mistakes in addressing other public health issues. All ministries were responsible for health and its underlying determinants, so a cross-sectoral approach to climate and health was needed to identify and capitalize on synergies. In response to a question about the role of special procedure mandate holders in addressing climate change and human rights, the Special Rapporteur noted that mandate holders could and should incorporate relevant human rights issues related to climate change in their work. Their function included the monitoring and evaluation of State human rights commitments, including those in the Paris Agreement and the 2030 Agenda for Sustainable Development. He was planning a report on health and the

Sustainable Development Goals and would consider addressing climate change in this context.

44. Closing the discussion, the moderator emphasized that it had been clearly established that climate change kills and addressing it required urgent action at all levels from all stakeholders, including individuals, the public sector and the private sector. He welcomed further discussion of the impacts of climate change on enjoyment of the right to health to be informed by subsequent reports of the Secretariat.

United Nations A/HRC/32/25

General Assembly

Distr.: General
26 April 2016

Original: English

Human Rights Council
Thirty-second session
Agenda items 2 and 3
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Summary of the Human Rights Council panel discussion on the progress in and challenges of addressing human rights issues in the context of efforts to end the HIV/AIDS epidemic by 2030

Summary

The present summary report was prepared in accordance with resolution 30/8 of the Human Rights Council, in which the Council decided to convene a panel discussion on the progress in and challenges of addressing human rights issues in the context of efforts to end the HIV/AIDS epidemic by 2030. The panel discussion, organized by the Office of the United Nations High Commissioner for Human Rights, was held on 11 March 2016, at the thirty-first session of the Council. Pursuant to resolution 30/8, the Council invited the General Assembly to take the summary report into consideration ahead of and during the high-level meeting on HIV/AIDS due to take place in June 2016. The panel discussion and the contribution of the Council were also highlighted in Assembly resolution 70/228 on modalities for organizing the high-level meeting on HIV/AIDS.

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I. Introduction

1. In its resolution 30/8, the Human Rights Council decided to convene a panel discussion at its thirty-first session on the progress in and challenges of addressing human rights issues in the context of efforts to end the HIV/AIDS epidemic by 2030, to coincide with the twentieth anniversary of the International Guidelines on HIV/AIDS and Human Rights. The Council invited the United Nations High Commissioner for Human Rights to liaise with States and stakeholders, including relevant United Nations bodies, agencies, funds and programmes, treaty bodies, special procedure mandate holders, national human rights institutions and civil society, with a view to ensuring their participation in the panel discussion.

2. Also in its resolution 30/8, the Human Rights Council requested the High Commissioner for Human Rights to prepare a summary report of the panel discussion and to submit it to the Council at its thirty-second session and invited the General Assembly to take the summary report into consideration ahead of and during the high-level meeting on HIV/AIDS due to take place in June 2016. Pursuant to that request, the present report is intended to support the commitment to ending the AIDS epidemic by 2030, and to contribute to the discussions at the high-level meeting. The panel discussion and the contribution of the Council were also highlighted in Assembly resolution 70/228 on modalities for organizing the high-level meeting on HIV/AIDS.

3. The interactive panel discussion was chaired by the Vice-President of the Human Rights Council, Bertrand de Crombrugghe, and was moderated by the Permanent Representative of Mozambique to the United Nations Office and other international organizations in Geneva, Pedro Afonso Comissário. The Deputy High Commissioner for Human Rights, Kate Gilmore, delivered an opening statement, after which a three-minute video entitled *15 Years of the AIDS Response 2000-2015*[1] was screened. The Deputy Executive Director of Programme at the Joint United Nations Programme on HIV/AIDS (UNAIDS), Luiz Loures, delivered a keynote address. The panellists were the Public Campaign Officer at the Indonesia AIDS Coalition, Ayu Oktariani; the Minister for Gender, Children and Social Protection, of Ghana, Nana Oye Lithur; the Vice-President of Health Production and Innovation, Oswaldo Cruz Foundation (Fiocruz), Ministry of Health of Brazil, and member of the High-level Panel on Access to Medicines, Jorge Bermudez; the Executive Director of the Global Fund to Fight AIDS, Tuberculosis and Malaria, Mark Dybul; and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Dainius Pûras.

4. Following the panellists' brief opening remarks, States, national human rights institutions, non-governmental organizations and other observers were encouraged to intervene by asking questions, making comments, and sharing good practices and challenges as well as recommendations on the way forward. The panel discussion provided a platform for experts and representatives of the populations affected to review the progress that had been made in addressing human rights issues in the context of efforts to end the HIV/AIDS epidemic by 2030, which included successes, best practices and lessons learned.

[1] Produced by the Joint United Nations Programme on HIV/AIDS (UNAIDS).

II. Summary of the discussion

A. Opening remarks

5. In her opening remarks, the Deputy High Commissioner said that 20 years on from the International Guidelines on HIV/AIDS and Human Rights being issued, much progress had been made, compared to the early days when the response to HIV/AIDS was characterized by fear and panic. She emphasized that HIV/AIDS could today be treated as a chronic infection if antiretroviral treatment and effective health-care services were available and accessible, and drew attention to the evidence that human rights approaches enhanced the effectiveness of HIV/AIDS programmes.

6. However, multiple human rights challenges stood in the way of ending the AIDS epidemic, and a lack of respect for human rights led to poor health outcomes. In that regard, she noted that poverty, inequality and discrimination were intimately linked to the spread of HIV, and that stigma and discrimination remained major obstacles to those affected by HIV/AIDS being diagnosed, accessing treatment or disclosing an HIV-positive status. For example, societal norms and practices that relegated women to lower standing in society accounted, in part, for poor health outcomes for women, and mortality rates due to AIDS continued to grow among adolescents during the period in which the Millennium Development Goals were being implemented, in spite of declines among other age groups.

7. The Deputy High Commissioner emphasized that, in order to realize human rights for all and leave no one behind, it was crucial to overcome the discrimination and barriers to accessing health care that were faced by marginalized population groups, which must be enabled to participate in the design and implementation of policies to address HIV/AIDS. The human rights principles of non-discrimination, access to information, privacy and confidentiality were especially valuable in that regard.

8. She noted that a lack of universal health coverage and a lack of access to medicines were human rights concerns of central importance in the response to HIV/AIDS. From a human rights perspective, universal health coverage required conditions in which every person in need had access to appropriate medical attention and services, and it was crucial to go beyond simply expanding coverage and to ensure a focus on equitable access for all. She stressed that, while scientific freedom had allowed for major advancements in health technologies, it came with the associated right for everyone to be able to enjoy the benefits of scientific progress and its applications. And yet, intellectual property rights had been allowed to take precedence over the protection of public health, severely limiting access to life-saving and health-preserving medicines for persons living with HIV/AIDS.

9. She remarked that, based on the recommendation of the Global Commission on HIV and the Law, the Secretary-General had established a high-level panel to propose solutions to remedy policy incoherence in this area, and noted that the Office of the High Commissioner for Human Rights was an active member of the expert advisory group supporting the panel. In closing, she recalled that human rights considerations had been vital in advancing in the fight against HIV/AIDS and were key to achieving further progress. She called for accountability, with the involvement of civil society, human rights activists and people living with HIV/AIDS, for the fulfilment of the obligation to end stigma and discrimination and for governments to make health care available to all those in need.

10. In his keynote address, Dr. Loures indicated that there was now a historic opportunity, which could not be missed, to end AIDS within our lifetimes. He identified the upcoming high-level meeting in New York as the opportunity to establish the commitments that would be required in order to put the world on the path to ending AIDS as a public

health threat, and invited the Human Rights Council and ambassadors to ensure that human rights were at the centre of the discussions at the General Assembly. He pointed out that because the tools were available, there was a collective responsibility to end AIDS by 2030. Human rights were more central to the fight against AIDS today than ever before, as the history of success against the epidemic had been uneven. While much progress had been made, that has not been the case for everyone. He said that failure to protect human rights, particularly of those most vulnerable to and affected by the AIDS epidemic, was now more than ever making the difference between life and death. He stressed that unless we removed the legal and policy barriers that resulted in people being left behind, we would not be able to put an end to the AIDS epidemic.

11. He emphasized that the current priority was to address the fundamental factors that were preventing progress against AIDS, and that the challenge today was to make human rights work for people. He stressed that discrimination in health-care settings was unacceptable, and yet HIV-positive people continued to be denied health services and to be discriminated against. He also noted that, since we had the tools to end AIDS, the outcomes for persons living with HIV should not be determined by who they were or where they lived. Whereas geography was less important now than in the past in determining access to treatment, vulnerability to HIV and access to services were determined more than ever by gender, sexual orientation, or the fact of being a detainee, an injecting drug user or a sex worker. He noted that the current rates of AIDS among sex workers in some sub-Saharan African countries were unacceptably high. He also stressed that higher HIV vulnerability among women and girls or among gay men and transgender people was less about biology than about the social, legal and human rights challenges faced by these populations.

12. While citing the overall progress in the HIV/AIDS response, with some 16 million people on antiretroviral treatment today, Dr. Loures recalled that 35 million deaths had been caused by HIV/AIDS and lessons must be learned. In spite of important progress in the AIDS response, the paradox was that, while the science had advanced, the solution was yet to materialize. He said that lack of respect for and protection of human rights was the main determinant of the epidemic. He also noted that there was a looming treatment crisis associated with the ongoing inadequate delivery of treatment and inadequate access to treatment, due to costs and a lack of adequately equipped systems. He recalled the successes in bringing about a global shift in the HIV/AIDS response over the past 20 years, the greatest driver of which had been social movements. Civil society organizations, in particular those representing people living with HIV, had been at the forefront of the progress achieved in the AIDS response, from demanding the protection of their human rights to setting up programmes to improve access to justice and health services.

B. Overview of the presentations by the panellists

13. The moderator, Mr. Comissário, spoke of the twentieth anniversary of the International Guidelines on HIV/AIDS and Human Rights and emphasized that the vision now was to end the AIDS epidemic by 2030. He reiterated that the panel discussion was taking place in the context of preparations for the high-level meeting in New York in June 2016, and that the composition of the panel reflected efforts undertaken by civil society, experts, the United Nations entities concerned, Governments, and activists on the ground.

14. Ms. Oktariani described her experience of living with HIV, from her initial diagnosis to her current role as an advocate for the empowerment of her community and for the voiceless. She emphasized that efforts to tackle the HIV/AIDS epidemic could not be separated from fulfilment of the human rights of the people affected by it. Women, young people and children were those who were most often left behind due to failures to provide

the necessary treatment to them, which was unjust and needed to be rectified with programmes to address their specific vulnerabilities.

15. She stressed that efforts to scale up HIV testing and treatment services would remain devoid of meaning and elusive without a full recognition of human rights in AIDS programmes and policies. The lesbian, gay, bisexual and transgender community was still living in fear, and the criminalization of drug users needed to be eliminated. She emphasized that access to affordable medicines was a human right, and that people had to be put ahead of profits. In that regard, she pointed out how trade agreements such as the Trans-Pacific Partnership could endanger access to life-saving commodities.

16. Ms. Lithur presented her experience of fighting HIV/AIDS in Ghana, which had included working as a human rights lawyer, and supporting people affected by HIV/AIDS at her human rights clinic. She recalled that the clients for whom she had been an advocate were not able to access legal remedies or redress for human rights violations. They faced increased vulnerabilities and were often the victims of various forms of human rights violations. She noted that gender-based violence was prevalent, in a context where discrimination and poverty were widespread. For example, police officers tasked with enforcing the law and protecting citizens were often involved in sexual assaults on young sex workers, while service providers in health care, social services and law enforcement were unable to assist.

17. Speaking about what the most effective strategies were, Ms. Lithur referred to advocacy, research, direct interventions at all levels, and the use of international, regional and national laws and conventions. She had used these strategies to strengthen the legal and policy framework, and had conducted a comprehensive legislative audit in Ghana to identify gaps and initiate action to repeal, amend and review laws, in order to create a more favourable legal environment. The audit report had been instrumental in creating the national HIV policy in Ghana in 2011, and an HIV law under consideration by the Cabinet. She had also been supported by the United Nations Population Fund to research human rights violations carried out against female sex workers by police officers. This had led to the development of curricula and then to the training of police officers and key populations, on HIV/AIDS. She had also conducted the first-ever training programme, for service providers, on key populations and human rights, including for the Department of Social Welfare, the Police Domestic Violence and Victim Support Unit, and the Commission on Human Rights and Administrative Justice. A human rights clinic had been set up in 2008, and by the end of 2015 it had provided support to 1,568 persons. Finally, she noted the establishment of a pro bono lawyers' network comprising 100 lawyers registered to deal with HIV-related cases.

18. Dr. Bermudez said that barriers to access to medicines included intellectual property rules, monopolies, oligopolies and unaffordability. The world had been struggling fiercely for 20 years to strike a balance between trade and health, or between innovation and health, and it had failed. Brazil was one of the first countries in the world to establish a national HIV/AIDS response programme, in 1985. The Brazilian response was based on a human rights approach, with efforts to ensure universal access to prevention and treatment, including through special measures to promote non-discrimination and civil society participation. A comprehensive approach, whereby both prevention and care would be addressed through local public production and through public-public and public-private partnerships, was currently at risk due to the looming treatment crisis.

19. The appointment of 16 members to the High-level Panel on Access to Medicines, in December 2015, with two former presidents as Co-Chairs, was an indication of the importance that the Secretary-General of the United Nations placed on the issue of access to medicines, and a recognition that in spite of all the progress made in health care, millions of people had been left behind. The scope of the panel's mandate was to make proposals on

how to address policy incoherence in public health, trade, the justifiable rights of inventors, and human rights. Today, the world was facing innovation restricted to the rich and health systems in a state of near-collapse, and not only in the Global South. This situation was characterized by high and unjustifiable prices of new products and the unaffordability of new technologies. The international community needed to be bold and find ways to overcome the barriers, which included regulatory and intellectual property barriers, and to redouble its efforts to strengthen health systems and ensure healthy lives for all, in line with the ambitious agenda committed to in the Sustainable Development Goals.

20. Dr. Dybul stated that the Global Fund had disbursed nearly $4 billion to support local programmes that had prevented the premature deaths of millions of people from HIV, tuberculosis and malaria. There had been great progress, he said, with almost every country now implementing prevention and treatment programmes. HIV did not affect people equally, and the international community had to move towards being more inclusive. The Global Fund had had a human rights objective in its strategy since 2011. In many settings, the impact of the Global Fund's grants was greatly reduced because of human rights-related barriers to services, such as women and girls being denied access to testing and treatment.

21. Dr. Dybul noted that UNAIDS, which was a close partner of the Global Fund, had defined seven key programmes that reduced human rights-related barriers to services, including programmes for legal literacy, also referred to as "know your rights" programmes. However, investment in those programmes remained minimal. Introducing and scaling up programmes that removed human rights barriers to accessing services would be among the main objectives of the Global Fund's strategic framework for 2017 to 2022. Efforts would be concentrated on 15 to 20 countries that had particular needs as well as particular opportunities for introducing and scaling up programmes. The aim was increased uptake and ongoing use of services through decreased levels of stigma and discrimination.

22. Mr. Pūras underlined the role of health-care settings as spaces where key populations should have access to the services and information they needed. All over the world, people faced various forms of discrimination in relation to health care. Evidence showed that health-care settings were among the environments where people most often experienced HIV-related stigma and discrimination. Such discrimination was often linked, among other factors, to gender, race, socioeconomic status, age, sexual orientation, gender identity and expression, drug use or HIV status. Some of the most common manifestations of discrimination in health-care settings included the denial of health care and unjust barriers in service provision, inferior quality of care, disrespect, abuse and other forms of mistreatment, and extreme violations of autonomy and bodily integrity. Evidence had shown that the interventions that worked the best were those that were based on a strong human rights approach, and that quality health care had to be provided in a timely manner without discrimination.

C. Interventions by representatives of States members of the Human Rights Council, observer States and other observers

23. In the ensuing discussion, contributions were made, in the following order, by representatives of Brazil on behalf of Colombia, Mozambique, Portugal and Thailand, Pakistan on behalf of the Organization of Islamic Cooperation, the Dominican Republic on behalf of the Community of Latin American and Caribbean States, Kuwait on behalf of the Group of Arab States, the European Union, Portugal on behalf of the Community of Portuguese-speaking Countries, Saint Vincent and the Grenadines, Egypt, Poland, Colombia, Morocco, India, the United States of America, Chile, Denmark, Paraguay, Estonia, Saint Kitts and Nevis, Namibia, El Salvador, Switzerland, Monaco, the Islamic Republic of Iran, Malawi, Panama, Australia, Austria, Ecuador, Uruguay and Cuba. Some

contributions were not delivered due to lack of time, including those of Albania, Algeria, Angola, the Bahamas, Belarus, Belgium, China, Ethiopia, France, Georgia, the Holy See, Kyrgyzstan, Lesotho, Malaysia, the Netherlands, the Republic of Moldova, the Russian Federation, South Africa, Swaziland, Thailand, Tunisia, the Bolivarian Republic of Venezuela, and Viet Nam.

24. Representatives of the following non-governmental organizations and intergovernmental organizations contributed to the discussions: the Elizabeth Glaser Pediatric AIDS Foundation (in a joint statement with Caritas Internationalis and World Vision International), the Center for Reproductive Rights (in a joint statement with the ATHENA Network, the International Community of Women Living with HIV/AIDS and Vivo Positivo), the International Harm Reduction Association, the International HIV/AIDS Alliance (in a joint statement with the International Lesbian, Gay, Bisexual, Trans and Intersex Association, the International Council of AIDS Service Organizations, the Canadian HIV/AIDS Legal Network, the Global Network of People Living with HIV, the International Planned Parenthood Federation, the International AIDS Society, the Grandmothers' Advocacy Network and the Humanist Institute for Cooperation with Developing Countries), the World Young Women's Christian Association, and Action Canada for Population and Development.

25. The World Food Programme and the International Labour Organization also took the floor. Due to a lack of time, contributions were also registered but not delivered from the International Development Law Organization, the United Nations Office for Project Services, the United Nations Development Programme, the World Health Organization and the United Nations Population Fund.

26. All speakers reaffirmed their commitment to ending HIV/AIDS, and there was a broad consensus that human rights should be at the core of global, regional and national strategies to end the epidemic. Several delegates emphasized that ending HIV/AIDS would require international human rights obligations to be fulfilled, and access to health care, treatment and medicines for all to be promoted. They stressed the importance of international cooperation in that regard, with some pointing out that in order for no one to be left behind, the international community needed to redouble its efforts, strengthening its cooperation on universal access to medicines and antiretroviral treatment. Speakers emphasized that the human right to health should be fulfilled for everyone, without discrimination, and that in order to reach the many in need who still did not have affordable access to antiretroviral drugs, States could make use of the flexibilities under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement.

27. Several speakers underlined the importance of ending the discrimination, stigma and violence associated with HIV/AIDS, and identified a need for tailored approaches targeting those with heightened vulnerability to HIV/AIDS, including children and adolescents, women and girls, sex workers, lesbian, gay, bisexual and transgender people, people who injected drugs and prison inmates. Several speakers stressed the importance of eliminating punitive laws against those most vulnerable to HIV/AIDS, for example the laws that criminalized, inter alia, drug users, same-sex relations, sex workers, and HIV non-disclosure, exposure or transmission. It was also noted that punitive approaches in relation to drug use were impeding global efforts to end the HIV/AIDS epidemic.

28. Speakers pointed out that in order to bring about an effective, human rights-based response and end HIV/AIDS by 2030, a strengthened gender focus was needed. They identified gender-based inequality, discrimination and violence as causal factors in the continuing spread of HIV/AIDS, and stressed that it was necessary to end gender-based discrimination, for example by promoting gender equality and the empowerment of women and girls in society and ensuring access to sexual and reproductive health and rights. Some speakers also noted the obligation of States to uphold children's rights to health and life, by

tackling the mother-to-child HIV transmission rate and by enacting stronger legislation to fight child exploitation. Others drew attention to the protection of human rights at work as being central to the fight against HIV/AIDS, including through the implementation of international standards that provided protections against workplace discrimination and prohibited mandatory HIV testing or screening as a precondition for employment.

29. Many speakers described their national, regional and international efforts to end the HIV/AIDS epidemic, citing specific examples of national progress that had resulted from using strategies and approaches based on human rights. These were, among others, the scaling up of resources for HIV/AIDS prevention, treatment and care; multisectoral, regional and other partnership approaches, alongside integrated strategic planning across service sectors; the provision of voluntary, anonymous and free testing for HIV; the provision of free and effective antiretroviral therapy to all HIV-positive patients; the provision of universal access to health care and to prevention programmes; sexual and reproductive health-care strategies; programmes to prevent mother-to-child transmission; programmes designed to tackle stigma and discrimination; and community-based, participatory approaches to prevention, treatment and care, in which those affected by HIV/AIDS were seen not as a problem but rather as part of the solution.

30. Other speakers described the ongoing challenges that still impeded access to health care and antiretroviral treatment for all those in need. They pointed out that the reasons why many people were still being left behind in the HIV/AIDS response included inadequate resources and capacity at the national level, the high pricing of antiretroviral treatment and diagnostics, and insufficient progress in international cooperation on access to medicines. Speakers also emphasized that addressing discrimination, which continued to drive infection rates, was difficult. Some speakers noted that legislation and policies were not enough to tackle discrimination and other factors driving the epidemic. Moreover, speakers stressed that the situation of certain vulnerable groups made it particularly difficult to ensure their access to HIV treatment, and to uphold their sexual and reproductive rights. Some also noted that the Political Declaration on HIV and AIDS: Intensifying Our Efforts to Eliminate HIV and AIDS, of 2011, remained an important agreed framework that reaffirmed "the need for all countries to implement the commitments and pledges in the present Declaration consistent with national laws, national development priorities and international human rights".[2]

III. Conclusions

31. **In their concluding comments, the panellists re-emphasized the imperative of promoting quality health care and eliminating stigma and discrimination, through a pragmatic approach guided by human rights. They emphasized that the Sustainable Development Goals could only be achieved if non-discrimination and gender equality were also achieved. In that regard, the panellists recommended a long-term approach in which human rights were advanced as a priority, actions were targeted at the groups and populations that were affected the most, and legal challenges and opportunities were also prioritized. They identified Ghana and Mozambique as examples of countries in which human rights progress had been achieved through legislative measures, and urged the African region to tackle gender issues and other key issues in which traditional beliefs and practices played a role, as the imperative was to save human lives.**

[2] See General Assembly resolution 65/277, para. 2.

32. Panellists urged States to take a stand against economic and political pressure and to put people first, combining the elimination of punitive laws against the groups most at risk with increased funding of human rights-based approaches and with access to the necessary medicines, science and technologies. They noted that access to science and technology was a global issue that required international cooperation. To make the aims of the 2030 Agenda for Sustainable Development and the 90-90-90 treatment target[3] attainable, it would be essential for the international community to cooperate in order to bring about access to new technologies. Affordability and access to medicines were major challenges to ending AIDS and other global epidemics. Panellists urged States to be bold and make use of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement flexibilities. They noted that TRIPS plus agreements should be discontinued as they hampered access to medicines, and they underlined the importance of the work of the High-level Panel on Access to Medicines.

33. The panellists emphasized that the Sustainable Development Goals called for integrated and holistic approaches, and that such approaches would be indispensable to the realization of universal health coverage. They noted that the present crisis in health systems and in access to treatment was also an opportunity for the AIDS response to be strengthened through universal health coverage delivered on the basis of accountability, solidarity and collaboration, in which the priority was for no one to be left behind.

IV. Summary recommendations for the high-level meeting on HIV/AIDS

34. In its resolution 30/8, the Human Rights Council invited the General Assembly to take the present report into consideration ahead of and during the high-level meeting on HIV/AIDS to take place in 2016.[4] In addition, Assembly resolution 70/228 highlighted the importance of the contribution of the Human Rights Council to the high-level meeting. Accordingly, the present summary of recommendations is intended to support the commitment to ending the AIDS epidemic by 2030 and to contribute to the discussions during the high-level meeting.

35. It was emphasized at the panel discussion that HIV/AIDS remained among the greatest challenges of our time, and that the lives of human beings and respect for human dignity were at stake. Today, there was a historic opportunity that could not be missed, to put an end to AIDS within our lifetimes. The international community had made great progress in the fight to end HIV/AIDS, but much more needed to be done both individually and collectively. Progress to date had been uneven, and the current challenge was to reach the many who were still being left behind. Efforts to eliminate HIV/AIDS had, to date, proved most effective when they were rights-based. Moreover, it was a matter of respect for human dignity that the HIV/AIDS response should, at all levels, be designed to tackle the stigma, discrimination and violence that continued to drive the spread of the epidemic. The panel stressed that the world would not succeed in ending AIDS as a public health threat by 2030 without renewed commitments and efforts to address the legal and human rights barriers that made people vulnerable to HIV and blocked effective responses to the epidemic. Five salient points were highlighted in these respects:

[3] See http://www.unaids.org/sites/default/files/media_asset/90-90-90_en_0.pdf.

[4] See Human Rights Council resolution 30/8 and General Assembly decision 68/555.

(a) **The AIDS epidemic is, today more than ever, characterized by stigma and discrimination. People living with HIV continue to face stigma and discrimination in all sectors, including within families and communities, at the workplace and in health-care settings. The people who are the most vulnerable to HIV, who include women and girls, sex workers, lesbian, gay, bisexual and transgender people, people who inject drugs and people in detention, face high levels of stigma and discrimination. Addressing stigma and discrimination in all aspects of life and society, including in health-care settings, is therefore the essential basis for ending AIDS by 2030.**

(b) **Universal health coverage is fundamental to an effective HIV/AIDS response, and every person should have access to appropriate medical attention and services. Beyond simply expanding coverage, it is essential to bring about equitable access to health care for all. Rights-based health services are needed, in order to ensure the availability, accessibility, acceptability and quality of treatment without discrimination. Special approaches are needed to reach marginalized groups and other populations who are being left behind and who face greater barriers to accessing health care, and these groups should be enabled to participate in the design and implementation of policies to address HIV/AIDS.**

(c) **Access to medicines for all is essential to ending AIDS and to realizing the right to health. Scientific freedom, which has led to advancements in health technologies, comes with the associated right for everyone to be able to enjoy its benefits and applications. Intellectual property rights must not be allowed to take precedence over public health and over the right of all persons living with HIV/AIDS to have access to life-saving medicines. As the tools for ending AIDS are available, they must be made accessible to all those who are in need of treatment. The human right to health should take precedence over profit, and it is crucial that transformative global cooperation be accelerated on the basis of the common aim of enabling access to medicines for all.**

(d) **It is essential to maintain efforts to review and reform laws, policies and practices that adversely affect the successful, effective and equitable delivery of HIV prevention, treatment, care and support programmes to people living with HIV and other key populations, including the laws that criminalize, *inter alia*, drug users, same-sex relations, sex workers, and HIV non-disclosure, exposure and transmission.**

(e) **Human rights programmes that have proved successful in addressing vulnerability to HIV, and in addressing barriers to accessing HIV treatment and health care services, need to be scaled up and adequately funded. This should include programmes aimed at eliminating stigma and discrimination against people living with and affected by HIV and against their families, including by sensitizing the police and judges, training health-care workers in non-discrimination, confidentiality and informed consent, supporting national human rights learning campaigns, legal literacy and legal services, and monitoring the impact of the legal environment on HIV prevention, treatment, care and support.**

United Nations A/HRC/32/26

General Assembly

Distr.: General
10 May 2016

Original: English

Human Rights Council
Thirty-second session
Agenda items 2 and 5
Human rights bodies and mechanisms

Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Expert workshop to review the mandate of the Expert Mechanism on the Rights of Indigenous Peoples

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

In its resolution 30/11, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to convene a two-day expert workshop open to the participation of States, indigenous peoples and other stakeholders to review the mandate of the Expert Mechanism on the Rights of Indigenous Peoples and to propose recommendations on how it can more effectively promote respect for the United Nations Declaration on the Rights of Indigenous Peoples, including by better assisting Member States to monitor, evaluate and improve the achievement of the ends of the Declaration. The Council also requested OHCHR to prepare a report on the workshop, including the proposals made, to be submitted to the Council at its thirty-second session.

In pursuance of that resolution, OHCHR organized a two-day workshop, held in Geneva on 4 and 5 April 2016. Participants included States, indigenous peoples and other stakeholders. The present report contains a summary of the discussions held and the proposals made at the workshop.

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I. Introduction

1. The Expert Mechanism on the Rights of Indigenous Peoples was established in 2007 by Human Rights Council resolution 6/36, as a subsidiary body of the Council, to provide thematic expertise on the rights of indigenous peoples in the manner and form requested by the Council. The thematic expertise focuses mainly on studies and research-based advice and the Expert Mechanism may submit proposals to the Council for its consideration and approval.

2. In the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, the Assembly invited the Human Rights Council, taking into account the views of indigenous peoples, to review the mandates of its existing mechanisms, in particular the Expert Mechanism, with a view to modifying and improving the Expert Mechanism so that it could more effectively promote respect for the United Nations Declaration on the Rights of Indigenous Peoples, including by better assisting Member States to monitor, evaluate and improve the achievement of the ends of the Declaration (see Assembly resolution 69/2, para. 28).

3. In September 2015, the Human Rights Council adopted resolution 30/11, in which it requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to convene a two-day expert workshop open to the participation of States, indigenous peoples and other stakeholders, including by inviting the submission of written contributions, to review the mandate of the Expert Mechanism (para. 1). OHCHR accordingly invited States, indigenous peoples and other stakeholders to submit written contributions on the review of the mandate of the Expert Mechanism and to propose recommendations on how it could more effectively promote respect for the Declaration, including by better assisting Member States to monitor, evaluate and improve the achievement of the ends of the Declaration, in line with paragraph 28 of General Assembly resolution 69/2. The Council also requested OHCHR to prepare a report on the workshop, including the recommendations made, to be submitted to the Council at its thirty-second session. The present report was prepared in response to that request (annex I contains a non-exhaustive list of proposals put forward at the workshop).

4. The expert workshop was held in Geneva on 4 and 5 April 2016 and brought together approximately 100 participants, including States, indigenous peoples and other stakeholders (see annex II). The following 10 experts on indigenous peoples' rights were invited to make presentations during the workshop: Alexey Tsykarev, Chair of the Expert Mechanism; Tracey Whare, Trustee of the Aotearoa Indigenous Rights Trust, New Zealand; Alexandra Xanthaki, Reader in Law and Director of Research, Brunel University London, United Kingdom of Great Britain and Northern Ireland; Victoria Tauli-Corpuz, Special Rapporteur on the rights of indigenous peoples; Megan Davis, Chair of the Permanent Forum on Indigenous Issues; Patrick Thornberry, Professor of International Law at Keele University, United Kingdom, and former member of the Committee on the Elimination of Racial Discrimination; Mattias Ahren, Professor at the Faculty of Law, Arctic University of Norway; Otilia Lux de Coti, Director of the International Indigenous Women's Forum and former member of the Permanent Forum on Indigenous Issues; Albert Barume, member of the Expert Mechanism; and Chief Wilton Littlechild, former Chair and current member of the Expert Mechanism.

5. The workshop was moderated by James Anaya, Professor of Human Rights Law and Policy at the University of Arizona, United States of America. The programme of the workshop consisted of four sessions focusing on the following themes: strengths and limitations of the current mandate; strengthening interaction with other indigenous-specific mandates and the United Nations human rights system in general; exploring new areas of

work; and modalities and methods of work. The workshop ended with a discussion and closing comments by the moderator.

6. The present report is structured according to the programme of the workshop and is therefore divided into four substantive sections, each of which focuses on one of the four themes set out above.

7. OHCHR would like to thank the representatives of States, indigenous peoples and other stakeholders who participated in the workshop, as well as the experts and the moderator. Moreover, it would like to thank all those who provided written contributions prior to the workshop (see annex III). The full text of each response to the questionnaire can be found on the web page of the Expert Mechanism dedicated to the review of the mandate.[1]

II. Opening of the workshop

8. In her opening remarks, the Director of the Division of Thematic Engagement, Special Procedures and Right to Development of OHCHR stressed the importance of the mandate review process and of using the Declaration as a key reference for the exercise. She underlined that any change to the mandate should aim to ensure that the Expert Mechanism could make a concrete contribution in terms of closing the gap between the standards enshrined in the Declaration and the reality on the ground. The Director emphasized that achieving the full and effective participation of indigenous peoples should continue to be one of the guiding principles of the mandate review process and that the Expert Mechanism must continue to be wide open to indigenous peoples' representatives.

9. In his opening remarks, Mr. Anaya, who served as the workshop's moderator, said that the Expert Mechanism had played a key role in making the contents of the Declaration operational. He also said that the Expert Mechanism had to be reassessed in order to reflect the changes that had occurred since it had been established in 2007, adding that the challenges, gaps and lessons learned had to be taken into account. He encouraged the participants to engage in a dialogue on how the Expert Mechanism could promote the respectful implementation of the Declaration.

III. Strengths and limitations of the current mandate

10. Several participants highlighted, as a strength of the current mandate, the unique position of the Expert Mechanism as the only thematic advisory body of the Human Rights Council to provide advice on indigenous peoples' rights. They also highlighted that it was possible for indigenous peoples and other stakeholders to access the Expert Mechanism and participate in its annual sessions, and that such participation was facilitated, inter alia, by the flexible accreditation rules and the support provided by the United Nations Voluntary Fund for Indigenous Peoples. The annual sessions were seen as an important opportunity for dialogue between indigenous peoples and States. Several participants found the expert advice provided by the Expert Mechanism of particular value, noting that the studies it carried out contained concrete conclusions on the content of international standards, including the Declaration, as well as suggestions for their implementation.

11. Some participants highlighted the multinational approach taken in the thematic studies and the collaboration with academic institutions. Some participants said that the

[1] See www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/Reviewofthemandate.aspx.

studies had helped to clarify the scope and content of the Declaration and had had a positive impact on the work of the Human Rights Council on indigenous peoples. It was noted that the studies offered the opportunity to report on how indigenous peoples understood various concepts related to their rights and to record how the provisions of the Declaration were supported by other instruments of international law, which in turn strengthened the interpretation and correct implementation of the Declaration.

12. As regards the limitations of the Expert Mechanism, a number of participants argued that its mandate was not as strong as that of the other two United Nations indigenous-specific mechanisms, and that there was a clear need to bolster it. It was also noted that the annual sessions attracted fewer participants than the sessions of the Permanent Forum on Indigenous Issues and that there was a need for an increase in States' contributions to the annual questionnaires and studies.

13. Some participants stated that the focus on thematic studies was not sufficient and that the Expert Mechanism should enhance its focus on the implementation of rights, including the Declaration, at the country level. It was also mentioned that a clear reference to the Declaration was missing from the Expert Mechanism's mandate. Some delegates said that, other than at the sessions of the Expert Mechanism and of the Human Rights Council, there was very limited focus on facilitating dialogue between States and indigenous peoples in the current work of the Expert Mechanism. Concern was expressed about limited coordination between the Expert Mechanism and other United Nations mechanisms.

14. One participant expressed concern about the fact that, under the current mandate, the Expert Mechanism could not address the serious situations faced by indigenous peoples, including gross human rights violations. In relation to the thematic studies, several participants said that it was difficult to determine their impact at the country level because there was no follow-up to the studies. The fact that the themes of the studies were chosen by the Human Rights Council, not by the Expert Mechanism, was highlighted as a limitation by several State and indigenous peoples' representatives.

15. Many State and indigenous peoples' representatives and several members of the Expert Mechanism highlighted that the Expert Mechanism lacked financial and human resources and had only limited secretariat staff support. The absence of funding for holding intersessional meetings, for participating in relevant international meetings and processes on issues such as climate change and the Sustainable Development Goals and for translating draft studies into all the official languages of the United Nations so that they could be considered by the Expert Mechanism at its sessions was also mentioned.

IV. Strengthening interaction with other indigenous-specific mandates and the United Nations human rights system in general

16. Several State and indigenous peoples' representatives highlighted the importance of interaction between the three indigenous-specific mandates, namely the Expert Mechanism, the Permanent Forum on Indigenous Issues and the Special Rapporteur on the rights of indigenous peoples. It was highlighted that coordination was already taking place, but there were also several calls for increasing cooperation with a view to avoiding unnecessary duplication on thematic and other work and maximizing the combined impact of the mandates. One delegate expressed understanding for a certain degree of overlap between the three mechanisms while at the same time underlining the importance of having complementarity. Several participants highlighted that the current level of overlap between the three mandates was insignificant and could be positive in the right circumstances considering the serious human rights situation of indigenous peoples.

17. Participants made specific suggestions for ways to enhance coordination, for example by issuing joint statements, coordinating studies and cooperating through a multi-year workplan. Cooperation with the Permanent Forum on Indigenous Issues was highlighted, but it was also noted that human rights was just one of six thematic issues that the Permanent Forum was mandated to address.

18. The relationship between the Special Rapporteur and the Expert Mechanism was the subject of much discussion. The Special Rapporteur underlined the many human rights challenges facing indigenous peoples and stressed that she was overwhelmed by the dire situation they faced and the many requests she had received. She suggested broadening the mandate of the Expert Mechanism to include country-specific situations and encouraged the Expert Mechanism to develop a database of recommendations on indigenous peoples from other United Nations mechanisms (such as the special procedures, the universal periodic review and the treaty bodies).

19. Several State and indigenous peoples' representatives supported the idea of enhancing cooperation between the Expert Mechanism and the Special Rapporteur. One State representative suggested developing a referral system so that both mechanisms could refer specific issues to each other, including on urgent situations, and follow up and report on the achievement of the ends of the Declaration. That proposal was supported by several State and indigenous peoples' representatives. One participant suggested formalizing coordination with the Special Rapporteur prior to her country visits and the Special Rapporteur proposed that the Expert Mechanism play a role in the follow-up to recommendations.

20. One State representative proposed merging the mandate of the Special Rapporteur with that of the Expert Mechanism, to enhance and elevate the role of the body and avoid duplication. The proposal included expanding the Expert Mechanism's mandate, so that the Mechanism could assist States in addressing country situations and provide expert advice, and having the Special Rapporteur chair the Expert Mechanism. A number of participants shared the overall goal of enhancing the impact and status of the Expert Mechanism but did not agree that merging the two mandates would be the way to reach that goal. In particular, concerns were expressed about the risk that such a merger might undermine the scope of action and current mandates of the Expert Mechanism and the Special Rapporteur. One participant suggested that other ways of strengthening the institutional links between the two mandates could be explored, including the possibility of giving the Special Rapporteur a seat in the Expert Mechanism.

21. One participant suggested expanding the scope of interaction to other special procedure mandate holders involved in the protection and promotion of indigenous peoples' rights, including the Special Rapporteur on the human right to safe drinking water and sanitation, the Special Rapporteur on the right to education, the Special Rapporteur on the right to food, the Special Rapporteur on the question of human rights and extreme poverty, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes.

22. A number of proposals were made on strengthening interaction with other mechanisms of the Human Rights Council, including the Working Group on the issue of human rights and transnational corporations and other business enterprises, which was highlighted by several State and indigenous peoples' representatives. One delegate suggested establishing closer links with the open-ended intergovernmental working group to draft a United Nations declaration on the rights of peasants and other people working in rural areas. Other suggestions included strengthening interaction with the President and Bureau of the Council through annual meetings, as well as with the regional groups of the Council, and participating in the annual meeting of special procedures mandate holders.

23. Among the proposals on how to strengthen interaction with the United Nations human rights system in general, several State and indigenous peoples' representatives mentioned the Expert Mechanism's role in following-up on selected recommendations from the human rights system, including the universal periodic review and the treaty bodies.

24. Several State and indigenous peoples' representatives called for the Expert Mechanism to strengthen its interaction with other mechanisms and organizations, including specialized agencies such as the International Labour Organization, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the World Intellectual Property Organization and mechanisms dealing with climate change and biodiversity. One delegate suggested enhancing interaction with multilateral processes, including those related to the World Bank safeguard policies and the Sustainable Development Goals.

25. One participant suggested institutionalizing meetings with the Under-Secretary-General appointed by the Secretary-General as the senior official of the United Nations system responsible for coordinating follow-up action for the World Conference on Indigenous Peoples. He also called for the permanent participation of the Expert Mechanism in the work of the Inter-Agency Support Group on Indigenous Issues and suggested biennial reporting to the General Assembly. One delegate cautioned against formalizing participation in and interaction with other mechanisms and working groups.

V. Exploring new areas of work

26. Several State and indigenous peoples' representatives called for the Expert Mechanism to have a stronger and clearer mandate, one that explicitly had the Declaration as its guiding normative framework. One participant said that the Expert Mechanism could focus on interpreting specific provisions of the Declaration and on facilitating their implementation, and called for the mandate to be flexible and not too constraining.

27. Some participants said that the core function of the Expert Mechanism should be to carry out an oversight function and provide follow-up to address the implementation gap of the Declaration, to assist States with implementation and to address human rights violations against indigenous peoples. Two participants cautioned against overstretching the Expert Mechanism and called for a focus on its core mandate and functions.

28. Participants called upon States to provide greater support to the Expert Mechanism and underlined the importance of States attending the annual session. One delegate said that it was possible to improve the Expert Mechanism without changing the mandate, by for example enhancing the participation of States.

29. It was also suggested that, in order to promote the implementation of the Declaration, the members of the Expert Mechanism should be able to make authoritative interpretations of its provisions, including in general annual reports. One delegate said that the Expert Mechanism should be able to make recommendations and issue general comments on the Declaration and gather information from all sources, including the treaty bodies, the universal periodic review and the Permanent Forum on Indigenous Issues. Another delegate said that the Expert Mechanism should engage with States and indigenous peoples at the country level and give pointed recommendations and advice in respect of actual cases of concern, without taking on tasks similar to those of the treaty bodies.

30. Some participants said that the Expert Mechanism should be able to make substantial recommendations. One participant underlined that the Expert Mechanism should not develop the same kind of authority as a complaints mechanism or a court. Another

participant asked whether it would be possible for the Expert Mechanism to prepare draft resolutions that could be presented to the Human Rights Council for consideration.

31. Several State and indigenous peoples' representatives called for the Expert Mechanism to have greater independence and autonomy from the Human Rights Council, notably with regard to the establishment of priorities and the determination of the themes of its studies and research. One delegate said that the Council should still be allowed to request the Expert Mechanism for advice.

32. Several State representatives were supportive of the thematic studies and expert advice of the Expert Mechanism. Two delegates emphasized that the studies should be more in line with the Declaration by, for example, focusing on how to achieve implementation of certain articles of the Declaration. Several State representatives encouraged the Expert Mechanism to pay more attention to the collection and dissemination by States of best practices and lessons learned. One participant said that studies could be the basis for making interpretations of the Declaration. Not all participants agreed on the need to pursue studies in the future and one participant suggested reducing or even discontinuing the preparation of thematic studies, referring to their limited impact at the country level and considering the possible increase in workload of the Expert Mechanism stemming from the review of its mandate.

33. Several participants spoke of the importance of following up on studies and of providing expert advice through different means, including by offering specific support to countries and connecting with relevant national authorities.

34. Several participants suggested preparing an annual global overview or report on the state of indigenous peoples and identifying good practices and implementation strategies to achieve the ends of the Declaration, based on voluntary contributions from States. Some delegates called for the inclusion of a section on best practices in a possible global report and a focus on multi-country contexts.

35. One participant suggested preparing a report on progress made in the implementation of certain rights, rather than a global report on the situation of indigenous peoples, since civil society organizations were already producing that type of report. One delegate called for the preparation of advisory reports addressed to interested States, while two participants highlighted the importance of preparing reports on the implementation of the Declaration at the national and regional levels and of having country reports.

36. Several State and indigenous peoples' representatives called for the Expert Mechanism to be able to facilitate dialogue between States and indigenous peoples. One participant said that none of the three mechanisms were explicitly mandated to facilitate dialogue at the country level and suggested that the dialogue could serve as a channel to infuse the Declaration and other relevant human rights standards into legal and policy frameworks at the country level. Another participant said that the Expert Mechanism should have a role to play in face-to-face discussions between States and indigenous peoples, particularly on issues related to the impact of extractive industries, violence against indigenous women, health and cultural rights, the implementation of treaties and agreements and issues related to land rights and resources. One delegate called for continued dialogue between States and indigenous peoples during the sessions of the Expert Mechanism.

37. The interaction between States and the Expert Mechanism was also discussed. Several State representatives saw a role for the Expert Mechanism in giving advice, technical assistance and other support to States upon request, including in relation to following up on the recommendations of other indigenous-specific mandates and the United Nations human rights system and by helping States implement the recommendations made by the treaty bodies. One participant suggested raising awareness of indigenous peoples'

rights among the staff of permanent missions to the United Nations in Geneva and New York.

38. Several participants called for the Expert Mechanism to be able to address country-specific situations, including through interaction with ministries dealing with indigenous peoples' rights at the country level and with national and regional human rights institutions and specialized bodies. One participant suggested that the Expert Mechanism could raise awareness of and promote the Declaration at the country level in cooperation with national human rights institutions as key partners, to address the capacity gap on indigenous peoples' rights. He also proposed that a standing item on dialogue with national human rights institutions be included in the agenda of the Expert Mechanism's sessions.

39. Two participants suggested holding regional forums on indigenous peoples' rights, with members of the Expert Mechanism participating as resource persons in joint training and capacity-building programmes, which could lead to the gradual integration of the Declaration into relevant regional human rights mechanisms. One participant suggested having regional focal points within the Expert Mechanism to ensure better implementation of rights at the regional level.

40. The Expert Mechanism was also encouraged to provide technical assistance and support to indigenous peoples in effectively accessing human rights mechanisms, including the special procedure mandate holders, the treaty bodies and the universal periodic review, by interacting with the indigenous members of national parliaments and by providing training to indigenous peoples on their rights. The Expert Mechanism was also encouraged to provide technical support to the private sector.

41. A discussion was held on whether the Expert Mechanism should be able to conduct country visits. One delegate emphasized the importance for the Expert Mechanism to be able to do so, in particular if a referral system with the Special Rapporteur were to be established, while others stressed that country visits were best undertaken by the Special Rapporteur and that it was possible to provide technical assistance and facilitate dialogue without visiting a country. One participant said that countries should only be visited in response to a request, while other participants said that country visits carried out by the Expert Mechanism would differ from those of the Special Rapporteur, and suggested using the term "country-specific activity". They also said that it would be difficult to facilitate dialogue, build capacity, provide technical assistance and collect best practices from Geneva.

42. Several participants encouraged the Expert Mechanism to look into specific issues, including the possibility of setting up a working group on the rights of indigenous persons with disabilities, focusing on indigenous peoples divided by borders and on business and human rights and facilitating dialogue between States and indigenous peoples on the issue of the international repatriation of ceremonial objects.

VI. Modalities and methods of work

43. Participants discussed the modalities and methods of work of the Expert Mechanism, as well as the Mechanism's composition. Several State representatives said that it was important for the experts to be independent. One delegate said that the qualifications of the experts should depend on the new mandate of the Expert Mechanism, while several State and indigenous peoples' representatives underlined that the experts should have knowledge of international law and human rights, as well as of indigenous traditional legal systems.

44. One delegate said that it was not necessary for the experts to have an indigenous background as long as they had the required expertise, while one participant spoke of the importance of having experts of indigenous origin and of achieving a balance in terms of gender. Several State representatives also mentioned the importance of having equitable geographical representation among the experts. One participant said that the qualifications of the experts should be set out in the mandate.

45. Several State representatives said that the qualifications and competence of the experts were more important than their number. Two delegates supported the idea of having seven members, one from each of the seven indigenous sociocultural regions of the world, to give broad representation to the world's indigenous peoples,[2] while one delegate hesitated to expand the current number of members. One delegate expressed satisfaction with the current number of members while one participant suggested increasing the number of experts taking into account the number of indigenous peoples in each region.

46. Two participants called for a more transparent process for nominating and selecting experts, while another participant suggested that members of the Expert Mechanism should be nominated by both States and indigenous peoples.

47. Several participants said that the experts should determine their own methods of work, making sure that they are in line with any changes made to the mandate. One participant stressed that the Expert Mechanism should not adopt a method of work that was similar to a complaints procedure. It was suggested that the sessions of the Expert Mechanism could include both public and private meetings, and a member of the Expert Mechanism suggested that the private meetings could focus on dialogue with States.[3] One participant advocated keeping the open meetings, as they provided indigenous peoples and States with the opportunity to interact directly.

48. One participant said that the number of working days should be based on the workload and eventual mandate of the Expert Mechanism. One delegate found the current number of working days sufficient, while another delegate called for the issue to be revisited. One participant said that closer interaction between the Expert Mechanism and the Special Rapporteur would entail more working days. Another participant mentioned the possibility of having three annual working weeks with one week for the public session, one for closed meetings and one for intersessional meetings.

49. The use of information and communications technologies was also mentioned. Several participants highlighted the importance of webcasting the annual session of the Expert Mechanism to make it more accessible to indigenous peoples who were not able to attend the session, while one participant said that some indigenous peoples still did not have access to the Internet. Videoconferencing was mentioned as a way for members of the Expert Mechanism to maintain intersessional communication.[4] One participant said that face-to-face meetings were better when preparing studies while another participant encouraged making better use of the OHCHR website and the country overviews available there.

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[2] The members of the Permanent Forum on Indigenous Issues that are nominated by indigenous organizations are appointed by the President of the Economic and Social Council and represent seven sociocultural regions determined to give broad representation to the world's indigenous peoples. The regions are: Africa; Asia; Central and South America and the Caribbean; the Arctic; Central and Eastern Europe, the Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific. One additional seat rotates among the first three regions listed above.

[3] The current practice is for the Expert Mechanism to have one or two half-day closed meetings during their annual session in order to finalize its reports and proposals to the Human Rights Council.

[4] Currently, the members of the Expert Mechanism hold monthly videoconferences.

50. The issue of financial and human resources for the Expert Mechanism was mentioned by most State and indigenous peoples' representatives and other stakeholders. Several State and indigenous peoples' representatives called for more funding for the Expert Mechanism, including for secretariat support. Several State and indigenous peoples' representatives said that the issue of resources should not be a deterrent to putting forward suggestions for a review of the Expert Mechanism.

51. Several State and indigenous peoples' representatives called for ensuring continued access by indigenous peoples to the sessions of the Expert Mechanism and one delegate called for indigenous peoples to continue to be involved in the development of the modalities of the Expert Mechanism. Several participants encouraged States to contribute to the United Nations Voluntary Fund for Indigenous Peoples, including States that had not yet done so. One indigenous peoples' representative mentioned the importance of having indigenous fellows at OHCHR to assist with the preparations of the annual session of the Expert Mechanism.

52. Two participants called for the special status of indigenous representatives, who constitute nations and peoples rather than civil society, to be respected and recognized.

VII. Concluding session

53. Several participants noted the constructive nature of the dialogue held during the two-day workshop and pointed to specific issues that had garnered broad support, including: the need to expand the mandate of the Expert Mechanism so that it could better engage States and indigenous peoples in advancing implementation of the Declaration, including by addressing country-specific situations in some way, and the need to ensure adequate financial resources for the Expert Mechanism.

54. In his concluding remarks, the moderator said that, since the adoption of the Declaration, Member States had joined indigenous peoples in expressing commitment to the principles of the Declaration. He underlined that the Declaration continued to remain an ideal and an aspiration, owing to the gap that existed between the principles enshrined in it and the reality on the ground. The moderator pointed out that, as expressed by many participants, there was a general understanding that the existing system of rights protection was not sufficiently robust to ensure the full and universal realization of the Declaration, and that enhancing the mandate of the Expert Mechanism was only a starting point.

Annex I

Non-exhaustive list of proposals put forward at the workshop

- The mandate of the Expert Mechanism should explicitly be based on the United Nations Declaration on the Rights of Indigenous Peoples, which should also be the Expert Mechanism's normative framework.
- The Expert Mechanism should have a mandate to assist States with the implementation of the Declaration.
- The Expert Mechanism should be able to make authoritative interpretations of the provisions of the Declaration.
- The Expert Mechanism should gather information from all sources, including the treaty bodies, the universal periodic review and the Permanent Forum on Indigenous Issues.
- The Expert Mechanism should have greater independence and autonomy from the Human Rights Council, including in terms of selecting the themes of its studies.
- The studies of the Expert Mechanism should be linked to specific articles of the Declaration.
- The Expert Mechanism should pay more attention to the collection and dissemination by States of best practices and lessons learned.
- The Expert Mechanism should follow up on studies and expert advice through different means.
- The Expert Mechanism should prepare an annual global report on developments regarding the implementation of the Declaration.
- The Expert Mechanism should play a role in facilitating dialogue between States and indigenous peoples.
- The Expert Mechanism should give advice and technical assistance to States upon request, including in relation to following up on the recommendations of other indigenous-specific mandates and the United Nations human rights system.
- The Expert Mechanism should be able to address country-specific situations.
- The Expert Mechanism should provide technical assistance to indigenous peoples and the private sector.
- There should be enhanced cooperation and interaction between the Expert Mechanism and the Permanent Forum on Indigenous Issues, the Special Rapporteur on the rights of indigenous peoples and other special procedures mandate holders involved in the protection and promotion of indigenous peoples' rights. Proposals in this regard ranged from developing a referral system between the Special Rapporteur and the Expert Mechanism to merging the two mandates.
- Cooperation and interaction should be enhanced between the Expert Mechanism and other mechanisms of the Human Rights Council, including the Working Group on the issue of human rights and transnational corporations and other business enterprises and the President and Bureau of the Council.

- Cooperation and interaction should be enhanced between the Expert Mechanism and the United Nations human rights system in general, including the treaty bodies and the universal periodic review.
- Cooperation and interaction should be enhanced between the Expert Mechanism and specialized agencies, mechanisms, organizations and multilateral processes beyond the United Nations human rights system.
- The members of the Expert Mechanism should be independent and have qualifications reflecting the resulting mandate. There should be balance in terms of gender and equitable geographical representation.
- The number of experts should be such as to ensure that the work of the Expert Mechanism is carried out efficiently, with one possibility being that one expert comes from each of the seven indigenous sociocultural regions.
- The experts should decide their own working methods, making sure that they are in line with any changes made to the mandate.
- The Expert Mechanism should use information and communications technologies, including webcasting.
- The Expert Mechanism should have more funding, including for secretariat support.
- Easy access by indigenous peoples to the sessions of the Expert Mechanism should continue to be ensured.
- States should consider contributing to the United Nations Voluntary Fund for Indigenous Peoples.

Annex II

List of participants

States Members of the United Nations represented by observers

Algeria, Australia, Bolivia (Plurinational State of), Canada, Chile, Czech Republic, Denmark, Ecuador, Estonia, Finland, Germany, Guatemala, Hungary, Indonesia, Japan, Latvia, Mexico, Namibia, Nicaragua, Norway, Peru, Russian Federation, South Africa, Spain, Sweden, Thailand, United States of America, Venezuela (Bolivarian Republic of).

United Nations mandate holders, mechanisms, bodies, specialized agencies, funds and programmes represented by observers

Committee on the Elimination of Racial Discrimination, United Nations Voluntary Fund for Indigenous Peoples.

Intergovernmental organizations represented by observers

European Union.

Invited experts on indigenous issues

James Anaya, Professor of Human Rights Law and Policy, University of Arizona, United States; Alexey Tsykarev, Chair of the Expert Mechanism on the Rights of Indigenous Peoples; Tracey Whare, Trustee of the Aotearoa Indigenous Rights Trust, New Zealand; Alexandra Xanthaki, Reader in Law and Director of Research, Brunel University London, United Kingdom of Great Britain and Northern Ireland; Victoria Tauli-Corpuz, Special Rapporteur on the rights of indigenous peoples; Megan Davis, Chair of the Permanent Forum on Indigenous Issues; Patrick Thornberry, Professor of International Law at Keele University, United Kingdom, and former member of the Committee on the Elimination of Racial Discrimination; Mattias Ahren, Professor at the Faculty of Law, Arctic University of Norway; Otilia Lux de Coti, Director of the International Indigenous Women's Forum and former member of the Permanent Forum on Indigenous Issues; Albert Barume, member of the Expert Mechanism on the Rights of Indigenous Peoples; Chief Wilton Littlechild, former Chair and current member of the Expert Mechanism on the Rights of Indigenous Peoples.

Institutions represented by academics and experts on indigenous issues

Columbia University, University of Arizona, University of Manitoba, University of South Australia.

Indigenous nations, peoples and organizations, as well as non-governmental organizations

Aboriginal Rights Coalition; Agencia Internacional de Prensa Indígena; Asia Indigenous Peoples Pact; Assemblée des Arméniens d'Arménie occidentale; Assembly of First Nations; Pan-Africa Association; Centre for Support of Indigenous Peoples of the North; Zagros Human Rights Centre; Citizen Potawatomi Nation; Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos; Commission africaine des promoteurs de la santé et des droits de l'homme; Consejo Indio de Sud America; Consejo Regional Indígena del Tolima; Culture of Afro-Indigenous Solidarity; Friends World Committee for Consultation; Foundation for Aboriginal and Islander Research Action; Fundación Paso a

Peace; Geneva for Human Rights; Grand Council of the Crees; Haudenosaunee External Relations Committee; Indian Law Resource Centre; Indigenous Peoples and Nations Coalition; Indigenous Peoples' Centre for Documentation, Research and Information; Indigenous World Association; International Indian Treaty Council; International Union for Conservation of Nature; Inuit Circumpolar Council; Just Planet; Kapaeeng Foundation; Maloca Internationale; National Congress of American Indians; Native American Rights Fund; Onion Lake Cree Nation; Sami Parliament of Norway; Tamaynut; Tin Hinane; Ti Tlanizke; Unissons-nous pour la promotion des Batwa; Voices for Peace; World Barua Organization; Youth Movement of Mordovian People.

Annex III

List of States, indigenous peoples and other stakeholders that provided responses to the questionnaire

States that provided responses

Argentina, Australia, Canada, Chile, Colombia, Democratic Republic of the Congo, Denmark (including Greenland), Finland, Guatemala, Norway, Russian Federation, United States of America, Venezuela (Bolivarian Republic of).

Indigenous peoples and other stakeholders that provided responses

Arctic indigenous peoples organizations and institutions, Bubi People of Bioko Island, Campaign for the Indigenous Protocol, Citizen Potawatomi Nation, Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos, World Amazigh Congress, Indian Law Resource Centre, Indigenous World Association, International Indian Treaty Council, Lumad Mindanaw Peoples Federation, National Congress of American Indians, Native American Rights Fund, Nepal Laborious Society Centre, Shiprock Community Development Corporation, Navajo Nation, Tamaynut, Human Rights Commission of New Zealand, Center for World Indigenous Studies, the members of the Expert Mechanism on the Rights of Indigenous Peoples.

Various other documents were made available, including a comparative list of the three indigenous-specific mandates and the report on the open-ended meeting of indigenous peoples on the follow-up to the World Conference on Indigenous Peoples.

United Nations

A/HRC/32/27

General Assembly

Distr.: General
10 June 2016

Original: English

Human Rights Council
Thirty-second session
Agenda items 2 and 6
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Universal periodic review

Operations of the Voluntary Fund for Participation in the Universal Periodic Review*

Report of the Office of the United Nations High Commissioner for Human Rights

* The present report was submitted after the deadline in order to reflect the most recent developments.

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I. Introduction

1. The present report is submitted in accordance with Human Rights Council resolution 16/22 and decision 17/119, in which the Council requested the secretariat to provide an annual written update on the operations of the Voluntary Fund for Participation in the Universal Periodic Review and on the resources available to it. As indicated in the previous update report (A/HRC/29/21), in an effort to consolidate information related to the universal periodic review, and on the basis of Council decision 17/119, the secretariat aligned the timing of submission of the reports on the activities supported through the two universal periodic review trust funds, namely, the Voluntary Fund for Participation and the Voluntary Fund for Financial and Technical Assistance in the Implementation of the Universal Periodic Review. In this way, as from 2015, both annual reports are submitted to the Council at its June session. The present report provides an overview of contributions and expenditures, together with a description of activities funded since the previous report as at 31 December 2015.

II. Financial situation of the Fund

2. Table 1 shows the detailed financial situation of the Fund as at 31 December 2015 (statement of income and expenditure).

Table 1
Statement of income and expenditure for the period 1 January–31 December 2015
(United States dollars)

Opening balance on 1 January 2015	**1 861 873.94**	
Income		
Voluntary contributions received from Governments in 2015		
Singapore		25 000.00
Miscellaneous and interest income		4 128.11
Total income		**29 128.11**
Expenditure[a]		
Staff costs		41 503.93
Fees and travel of experts and consultants		—
Travel of staff		92 109.49
Travel of representatives		465 742.41
Contractual services		500
General operating expenses		3 935.00
Supplies and materials		—
Grants, contributions and seminars		25 604.00
Programme support costs		81 895.00

Total expenditure	**711 290.33**
Miscellaneous adjustments/savings/refunds to donors	—
Total fund balance as at 31 December 2015	**1 183 606.72**

[a] Includes disbursements and obligations.

3. Since the establishment of the Fund, 15 States have made financial contributions. In 2015, Singapore contributed $25,000.

4. Since the Fund has not enjoyed a predictable pattern of income, substantial resources are systematically kept as a reserve for future activities. The secretariat of the Fund has been responsive to all requests, in accordance with the Fund's terms of reference, to enable participation.

III. Activities

A. Travel to meetings

5. Under the terms of reference of the Fund, financial support for travel to meetings is made available to developing countries, in particular least developed countries, to cover travel to Geneva by one official government representative in order to participate in:

(a) The sessions of the Working Group on the Universal Periodic Review during which the State of the representative is under review;

(b) Plenary sessions of the Human Rights Council at which the outcome of the review of the State of the representative is adopted.

6. The Fund also provides for the travel of official representatives (one per delegation) of developing countries, in particular least developed countries, that are members of the Human Rights Council and do not have a permanent mission in Geneva, to act as rapporteurs (namely, members of the troika).

7. In addition to travel costs, the Fund also provides for the payment of a daily subsistence allowance at the rate applicable to Geneva at the time of travel. Under the standing official provisions for such travel, a Government formally requesting this assistance is advised of the official entitlements for travel and daily subsistence allowance in connection with the required itinerary, to be reimbursed upon completion of the travel and the submission of the supporting documentation. This arrangement, however, proved onerous for many requesting Governments, and since they were unable to submit claims documenting their travels, they were not reimbursed. In an effort to address this issue, since the seventeenth session of the Working Group on the Universal Periodic Review (21 October–1 November 2013), the secretariat has arranged to provide economy-class tickets prior to travel, and payment of the daily subsistence allowance upon arrival in Geneva, thereby alleviating most of the difficulties associated with reimbursement of expenses. This arrangement was applicable until November 2015.

8. In November 2015, the Office of the United Nations High Commissioner for Human Rights (OHCHR), with most of the United Nations Secretariat, commenced operating in the Umoja environment. Umoja is a complete re-working of the way the Secretariat manages its administration, executes its work processes, conducts its business and manages its resources. Under the new system, which has required some changes to the way that travel

arrangements are processed, and is still subject to adjustments, once a Government has requested the assistance of the Fund, it is informed of the official entitlements for travel and daily subsistence allowance. OHCHR is required to make the necessary arrangements for the issuance and payment of the ticket in advance. The daily subsistence allowance is provided in two instalments: 75 per cent of the total amount is paid in advance either by bank transfer or upon arrival in Geneva, while the remaining amount and terminal expenses are disbursed after the completion of the mission following the submission of supporting documentation.

9. Direct ticketing does, however, require more advance planning, since Governments are required to designate the delegate appointed with lead time sufficient to enable the secretariat to make the travel arrangements and to issue the ticket in accordance with United Nations official travel policies. In cases where such direct ticketing is not possible, however, and unlike the practice in place before November 2015, travel expenses are not reimbursed. .

10. The fact that reimbursement of travel expenses is no longer an option under Umoja is having a substantial impact on the support provided to States, given that all travel arrangements will have to be made and all relevant information submitted to the secretariat well in advance of travel.

11. In 2015, of the 30 States eligible to benefit from the travel assistance of the Fund, 17 requested financial assistance to participate in the sessions of the Working Group at which they were reviewed or to attend a plenary session of the Human Rights Council for the adoption of their review outcome: Armenia, Grenada, Guinea-Bissau, Jamaica, Kenya, Kiribati, the Lao People's Democratic Republic, Lesotho, Liberia, Malawi, the Marshall Islands, Mauritania, Micronesia, Myanmar, Saint Kitts and Nevis, Saint Lucia, and Sao Tome and Principe.

12. Since March 2014, a more proactive approach involving targeted correspondence has been taken to encourage States to avail themselves of the support provided by the Fund. Several weeks prior to sessions, the secretariat addresses a letter to eligible States describing how to request assistance and the main entitlements. This targeted approach has allowed States, in particular small island developing States and least developed countries without representation in Geneva and not familiar with the human rights framework and machinery, to learn more about the Fund and to request support. In addition, the secretariat is able to ensure, to the extent possible, complementarity between the support provided by the Voluntary Fund for Participation in the Universal Periodic Review and the Voluntary Technical Assistance Trust Fund to Support the Participation of Least Developed Countries and Small Island Developing States in the Work of the Human Rights Council.

13. Table 2 below shows the breakdown of financial assistance and annual expenditure, complete with the amount authorized, status of reimbursement and total commitments to date with regard to the financial assistance provided for the travel of government delegates to Geneva.

Table 2
Expenditure for travel of government representatives to attend sessions of the Working Group on the Universal Periodic Review and plenary sessions of the Human Rights Council

Year	*Number of countries reimbursed*	*Amount authorized/pending claim (United States dollars)*	*Amount paid (United States dollars)*
2008	6	13 280	16 885
2009	17	33 846	23 568
2010	23	46 365	39 942
2011	21	81 778	11 698
2012	3	12 920	11 295
2013	6	35 176	35 176
2014	15	57 564	53 939
2015	23	18 268	95 512
Total			**288 015**

B. Training

14. The terms of reference of the Fund allow for the financing of briefings prior to the sessions of the Working Group on the Universal Periodic Review to assist States in the preparatory process. The briefings usually consist of plenary segments and breakout group discussions during which the policies, procedures and modalities of the universal periodic review are examined, information is exchanged and good practices and lessons learned are discussed concerning the organization of national consultations, the setting-up of interministerial coordination mechanisms, the drafting of national reports and participation in the interactive dialogues held by the Working Group and the Human Rights Council in plenary session.

15. Greater efforts were made to keep States engaged in cooperation with the universal periodic review mechanism, particularly small island developing States and least developed countries with no representation in Geneva. The targeted outreach activities in 2015 involved bilateral meetings with the permanent missions of those States in New York, in October.

16. The bilateral briefings held in New York and, when relevant, in Brussels, are part of a broad strategy to engage States with limited human capacity through different points of entry. The mission to New York in 2015 was part of a set of briefings initiated in 2009 as outreach activities to inform delegations about the universal periodic review process and mechanism. In October 2015, meetings were requested with the permanent missions of Antigua and Barbuda, the Federated States of Micronesia, Nauru, Palau, Papua New Guinea, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Solomon Islands and Suriname. Meetings were subsequently held with the delegations of those States, with the exception of Solomon Islands.

17. The bilateral and tailored nature of each briefing was greatly appreciated, and positive feedback was received from the delegations concerned. In the light of the contacts

established in New York and the fact that the permanent missions were following up on human rights matter, no briefings were held in Brussels in 2015.

18. In the same vein as the seminars for small island developing States and least developed countries organized in July 2013 in Port-Louis and in December 2014 in Casablanca (Morocco), three seminars were organized in 2015. In July 2015, two seminars were organized: the first, for English-speaking Caribbean States and Suriname, was held in Bridgetown; the second, for Portuguese-speaking States, was held in Brasilia. In November, a third seminar, for Pacific island States, was held in Suva. Three to four participants were invited from each State. The Office encouraged the participation of officials who were active members of the inter-institutional structure for reporting and follow-up, should such a structure exist. In the case that the structure did not exist, States were encouraged to nominate officials who could take the lead or contribute to setting one up. National human rights institutions were also invited. In addition, and given that the implementation of a number of human rights recommendations often require either the direct or indirect involvement of parliamentarians, the participation of a member of parliament was also envisaged.

19. The Fund funded the participation of four representatives from 23 States, three representatives from seven States and a representative from three resource countries for each seminar. A total of 122 participants, including national human rights institutions, were funded and participated in the seminars.

20. In the light of the growing interest among States in hearing and learning directly from each other's experience, Costa Rica and Paraguay were invited as resource countries for the seminar in Barbados. Costa Rica shared its experience in the establishment of an inter-institutional commission on follow-up to and implementation of international human rights obligations, its consultative process for the preparation of human rights reports and the implementation of recommendations. Costa Rica reported on how those structures, of a standing and inter-institutional nature, had been helpful in the preparation for the universal periodic review. Paraguay provided details with regard to its database (SIMORE), developed with the support of OHCHR, that compiles all universal periodic review recommendations and identifies the ministries and entities responsible for follow-up. The system, which allows the entities concerned to indicate the steps taken to implement the recommendations, is accessible for consultation by the public and includes an active tracking system. Costa Rica and Paraguay also attended the seminar organized in Brazil to share their experience. At the seminar held in Fiji, Paraguay shared information on its database. The Bahamas was invited as a resource country to inform participants on the details and functioning of the standing interministerial structure established to prepare the national report and for the review of the State during the session of the Working Group.

21. The seminars gave States an opportunity to share their experience in the preparation for their second review in the light of information on the implementation of recommendations made at the first cycle of the universal periodic review. In addition to allowing States to discuss the usefulness of inter-institutional structures for reporting on and implementing recommendations, and the requirements for developing national human rights plans of action, the seminars also permitted the collection and compilation of national practices and experiences described by small States with limited resources in complying with their reporting requirements and the implementation of recommendations. Participants acknowledged that the cyclical and public nature of the universal periodic review should trigger internal adjustments to the methods of work adopted by ministries and government institutions.

22. At the three seminars, and on the basis of the experience shared by some of the participating States or resource countries, participants recognized the need to regard and approach the universal periodic review as a process. Such a premise would then gain from

the establishment of standing inter-institutional reporting and follow-up structures. The importance for States with limited human and financial resources to invest in structures and frameworks that would permit an economy of scale was palpable. Besides resources constraints, the main problem that States faced was the turnover of officials and, consequently, the limited institutional memory available at any given time, coupled with a lack of ownership of the universal periodic review at the local level. The establishment of a standing structure at the national level, possibly with local ramification, was seen as an important contribution to addressing the problem. Participants also discussed the usefulness of databases that compiled thematically the recommendations made as a useful tool to assist States in keeping track of the recommendations made by human rights mechanisms.

23. OHCHR formalized a partnership with the Inter-Parliamentary Union in order to strengthen the participation of parliamentarians in the work of the Human Rights Council, with a focus on the universal periodic review and the implementation of recommendations emerging from the review, and in recognition of the importance of such participation. In this context, the fourth regional seminar for parliamentarians was held in Manila in February 2015. In accordance with the format and objective of the previous seminars, parliamentarians from the region were brought together with a view to familiarizing them with the universal periodic review process and identifying areas for their intervention and involvement.

IV. Conclusions

24. **The Voluntary Fund for Participation in the Universal Periodic Review continued to facilitate the participation of developing countries, and in particular least developed countries, in the sessions of the Working Group on the Universal Periodic Review at which they are considered. Assistance has been provided to those States, at their request, to enable them to participate in the adoption of their outcome document by the Human Rights Council at its plenary sessions. In that regard, and in addition to the relevant correspondence, the secretariat is following up with delegations through a more proactive approach to ensure that all States entitled to assistance under the Voluntary Fund avail themselves of the opportunity. Some difficulties inherent to the implementation in November 2015 of the Umoja administrative system have been experienced. A period of adaptation and adjustment is therefore inevitable until the system is running smoothly. In the meantime, the secretariat will make every effort to ensure that the impact on delegations in need of support is as limited as possible.**

25. **Since the inception of the universal periodic review and the inherent challenge to ensure that participation is indeed universal, the needs and constraints of least developed countries have been considered. Ensuring the informed, regular and full participation of States with little resources and no representation in Geneva, in addition to all other States, requires regular outreach activities. Special attention has been paid to those States by means of targeted initiatives at either the bilateral level or through the organization of subregional seminars. On the eve of the third cycle, the secretariat is exploring the best options to continue to help States not only to participate in the reviews, but also for the universal periodic review to be understood as a full process, in particular at the national level.**

26. **In the framework of its partnership with the Inter-Parliamentary Union, and further to the regional seminars held in 2014 and 2015, the secretariat is finalizing a practical guide for parliamentarians, illustrated by concrete examples of involvement of parliamentarians throughout the universal periodic review process. Once published, the guide will be share widely among stakeholders.**